LEGISLATIVE COUNCIL

Wednesday 13 April 1988

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

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

QUESTIONS

HEPATITIS B

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

Leave granted.

The Hon. M.B. CAMERON: Late last November I raised in this Chamber the subject of inoculation of police officers against the highly contagious disease, hepatitis B. I said that a full six months after a commitment by the State Government to implement an immunisation program for police, less than half of the high risk officers at one particular patrol base had received injections and a similar situation existed at several other bases. This had led to a situation where officers who had not been inoculated were working alongside those that had, and as a result a certain amount of worry and concern was being voiced.

Some police officers had even offered to be inoculated at their own expense, provided the Government agreed to reimburse them later when additional funds were available. This proposal, however, was refused. At the time the Attorey-General said he would refer my questions about whether vaccines would be made available to all 'at risk' police officers, and the situation regarding St John officers to the appropriate Minister and bring back a reply. That was on 25 November and I am still waiting.

I gather that although all St John officers have now been inoculated—the volunteers received their vaccines after St John had to dig into its own funds—police officers are still no closer to being completely covered. Slightly more than 1 300 police officers have so far had a series of hepatitis injections, leaving about 120 'at risk' officers still without any protection. If you add to that the 800 police in supposed non-risk areas, who can nevertheless be called on for operational work, and the 200 cadets still unprotected, one can see that our police officers are being sadly neglected. As one officer said to me:

> Police officers don't understand why the vaccines are available to all prison wardens yet police, who are the people who have to bring people into the gaol, are often unprotected against hepatitis B. They are asking what is the Government doing.

Only this week Professor Saul Krugman from New York University Centre, a man credited with identifying hepatitis A and B, during a visit to Adelaide was advocating the immunisation of all at high risk hepatitis B groups. In view of those sorts of comments, the Government's seeming tardiness to act and complete the immunisation of all at risk police officers is puzzling, particularly since a new serum is now available which is only half the cost of the one used in the past.

My questions to the Attorney-General are: first, has he obtained a reply to my 25 November question about funding to complete police inoculations and, secondly, what steps will the Government take to ensure that all police officers are given protection against hepatitis B, particularly in view of the availability of a far cheaper serum?

The Hon. J.R. CORNWALL: The Attorney-General has asked me to respond to this question as one of the two Ministers directly involved in the hepatitis B immunisation campaign. This question seems very strange. Mr Cameron seems to see himself as some sort of a surrogate for the South Australian Police Association, which reached agreement with the Minister of Emergency Services and me many months ago. As I recollect, that was in the context of the 1987-88 budget. Since that time, as far as I am aware, that association has not expressed any direct concern. The deal that it was able to obtain for its members was, by Australian standards, a very good one indeed. At least 1 300 police officers who are in the front line or who are in particular areas such as the North-West of the State where there is likely to be a risk of contracting hepatitis B have been vaccinated. The other thing that I think is quite important in this context is that, until very recently, the vaccine has been very expensive. It costs about $150 for an individual course of hepatitis B vaccine.

The Hon. M.B. Cameron: It's pretty cheap when you can get hepatitis B.

The Hon. J.R. CORNWALL: I don't know why the Hon. Mr Cameron sets himself up one day as some sort of spokesperson for the Mount Barker hospital and the next day—

Members interjecting:

The Hon. J.R. CORNWALL: I am sure that the executive of the Police Association would not be very impressed with that reflection on its competence. The executive of the Police Association, particularly the present executive, does very well by its membership. It has been an active executive which has concentrated on industrial issues and this, quite clearly, was seen as being an industrial issue. It has achieved a very good deal for its membership.

The Hon. M.B. Cameron: Nonsense!

The Hon. J.R. CORNWALL: If Mr Cameron—

The Hon. M.B. Cameron: They've had to accept what you offered them.

The Hon. J.R. CORNWALL: The Hon. Mr Cameron does not seem to be able to control himself either on the front bench during Question Time—

The Hon. M.B. Cameron: When you read the *News* today, I think you will—

The PRESIDENT: Order!

The Hon. J.R. CORNWALL: I will have a little to say about that later.

The Hon. L.H. Davis: Did they quote you out of context?

The Hon. J.R. CORNWALL: They quoted my remarks concerning the dishonourable, dishonest and disreputable Mr Lucas out of context. Those remarks were made in the context of something which Mr Lucas did and which the Attorney-General has outlined in this place. The *News* certainly quoted that out of context, but I will come to that matter later during Question Time. What Mr Lucas did, as he knows—

Members interjecting:

The PRESIDENT: Order!

The Hon. J.R. CORNWALL: —and, as his colleagues know, was disgraceful. Even Mr Cameron has dissociated himself from the behaviour of Mr Lucas when he repeated that private conversation.

The Hon. R.I. Lucas interjecting:

The Hon. J.R. CORNWALL: No.

The Hon. R.I. Lucas: Yes, you have. You're on the record for five years.

The PRESIDENT: Order!

The Hon. J.R. CORNWALL: No, I said that you had supple loins and you did not mind descending to the gutter—

The Hon. R.I. Lucas interjecting:

The PRESIDENT: Order!

The Hon. J.R. CORNWALL: That was in the context of Mr Lucas's behaviour about my alleged behaviour at Wilpena Pound. He did not mind descending to the gutter on that occasion. He showed his true colours on that occasion.

The Hon. R.I. Lucas: In a public place.

The Hon. J.R. CORNWALL: In a public place indeed!

The PRESIDENT: Order!

The Hon. J.R. CORNWALL: In a public place—having a private dinner in a dining-room at Wilpena Pound. It was in the context of that sort of continued behaviour that I described—and again describe—Mr Lucas as deceitful and disgraceful. It was in the context of his behaviour in trying to get into some sort of dishonourable entrapment of the Attorney-General that I described his behaviour as disgraceful and deceitful. And I do it again. Indeed, I will do it as often as I have to, until the public knows the context in which those remarks are made. The behaviour of Mr Lucas in this session of Parliament has been even more disgraceful, dishonourable and deceitful than it usually is. In the context of what Mr Lucas attempted to do the Attorney-General, he stands condemned.

The Hon. C.M. Hill interjecting:

The Hon. J.R. CORNWALL: There is the grandfather of the Council, Mr Hill, who is obviously not averse to a trick or two even in his sixties.

The Hon. C.M. Hill interjecting:

The Hon. J.R. CORNWALL: Yes, and I will come to that in a moment. Mr Hill is not averse to the odd dirty trick even in his sixties. It seems that Mr Hill has lost none of his former skills. I am perfectly happy to admit that he was a skilful political operator in his day.

An honourable member interjecting:

The Hon. J.R. CORNWALL: I will in the fullness of time. Apropos the vaccination of police officers in this State, pro rata—

Members interjecting:

The Hon. J.R. CORNWALL: Let me draw the attention of the public to the way in which this lot carries on every time I am on my feet. Let it be seen in that context before they go to some journalist who never comes near Parliament House from one year's end to another—who never comes in here at Question Time from one year's end to another—and paint their false, deceitful and dishonest pictures.

Members interjecting:

The PRESIDENT: Order! I hope that we are not going to have a very difficult day today. Despite the fact that we are so close to the end of the session, members of this Council did not have a 3 a.m. sitting as did other members of Parliament. I ask that we limit ourselves to questions and answers without interjections. We are currently half way through the answer to a question on hepatitis B.

The Hon. J.R. CORNWALL: With great deferential respect, we have almost finished. If members opposite would cease this continuous barrage of interjections, I could complete my answer expeditiously. I was about to say that, pro rata, the South Australian Police Force has a higher level of hepatitis B vaccination than any other force in the country. To the best of my knowledge the Government has not been recently approached by the Police Association—the official spokespersons and the industrial trade union of the Police Force—to express any dissatisfaction with that position. I do not know from where Mr Cameron gets his information. Like most of his information, in this matter it again appears to be wildly inaccurate.

The Hon. M.B. Cameron interjecting:

The Hon. J.R. CORNWALL: That is the sort of thing that is never reported—this constant barrage of interjections.

The Hon. M.B. Cameron: I feel really sorry for you. You are wonderful for us and I must say that I am very happy that you are the Minister.

The PRESIDENT: Order!

The Hon. M.B. Cameron: You are helping us to win the next election.

The PRESIDENT: Order!

The Hon. J.R. CORNWALL: As I said—

The Hon. M.B. Cameron interjecting:

The PRESIDENT: Order!

The Hon. J.R. CORNWALL: Mr Cameron should take more notice of surveys done by the Opposition and less notice of his personal dislike of me.

The Hon. M.B. Cameron interjecting:

The Hon. J.R. CORNWALL: Mr Cameron just said that I was nutty. That ought to be put on the record so that we can keep it along with the very lengthy dossier of all the other insults that he and his colleagues have hurled at me in a constant barrage of interjections across this Chamber for many years. Before the last election Mr Cameron and his colleagues said that I would be a great asset to them. In fact, they were routed; the Government had a record victory and, quite frankly, I cannot wait until the next election. The Police Force in South Australia has a higher pro rata level of hepatitis B vaccination than any other force in the country. I rest my case.

ARTS EDUCATION

The Hon. L.H. DAVIS: I seek leave to make an explanation before directing to the Minister assisting the Minister for the Arts a question on the subject of arts education.

Leave granted.

The Hon. L.H. DAVIS: There is turmoil in both arts education and English education leadership following the Education Department's decision to amalgamate arts and English under one superintendent. I have received a four page document, signed by six key officers of the arts in education team, attacking the proposal. Not only is the music education team fighting a move which seeks to transfer them out of their office at the Goodwood Orphanage but also arts education officers face the prospect of being responsible to a superintendent who may quaver in his or her boots at the sound of a musical note. Alternatively, it is possible that the superintendent appointed to preside over arts and English education may be a top musician who may occasionally split an infinitive in a discordant fashion! The document from these six well respected arts education officers makes a scathing attack on this proposal. I want to quote briefly from it, as follows:

> It is impossible to keep paring away specific subject management and leadership expertise and still expect the quality of education to remain at a high level . . . The arts consist of the distinct subject areas of music, dance, drama, visual art, craft and design and media studies. It is not believed that these distinct subject areas can be managed with the added responsibilities of components of the English superintendency, such as, early literacy and childhood, literacy and learning in the middle years [grades 8 to 12], connecting conversation, and the literacy intervention program.

They make the point that 'the arts provides over 5 000 full-time jobs for young South Australians'. However, the proposed merger will lessen arts support for schools. The minute further states:

> The arts superintendency is required to support teachers in schools where areas have provided little or no adviser support,

for example, none in southern area, and only one adviser in the eastern Area.

They state that the merger will lead to:

> the loss of status of the South Australian Education Department's recognised leadership in the arts, Australia-wide.

It is further stated that many programs will suffer with the loss of an arts superintendent, such as Come Out, representation on the Youth Performing Arts Council, and the summer school for teachers of the arts. Finally, they state:

> As a result of the leadership in the arts over the past few years, the arts have become a force in education. In 1988 we have achieved recognition for five PES and SAS, SSABSA subjects, which are some of the fastest growing in secondary schools.

The minute concludes:

> We ask that the decision to amalgamate the superintendency of the arts and English language R-12 be reconsidered in the light of sound educational need, not economic considerations.

This is a courageous and damning document, signed by these six key officers, who express great concern at the proposed amalgamation. Can the Minister advise the Council whether she agrees with the decision to amalgamate the superintendency of the arts and English language and, if so, what reasons can she advance to support this amalgamation?

The Hon. BARBARA WIESE: This matter was recently brought to my attention by an individual who shares the concern that has been expressed by the Hon. Mr Davis and some of the people to whom he has referred. I am raising this matter with the Minister of Education in order to get a report on why the Education Department is proposing to move in this direction.

At this point I do not have an up-to-date report on the matter but, as soon as I have that report, I shall be happy to share the information that comes from it. I would like to put on the record in responding to this question that South Australia and the South Australian Education Department enjoy an unparalleled reputation nationally for their commitment to the arts and arts education in this State. Only a couple of weeks ago I attended a meeting of cultural Ministers, a council of Ministers comprising both Education Ministers and Ministers responsible for the arts or cultural matters from a number of States.

The objective of that group of Ministers is to bring about better cooperation, coordination and implementation of arts policies in the education system around the country. In almost every instance on almost every topic that came before the cultural Ministers meeting (which was held in Melbourne a couple of weeks ago) the South Australian education system and Department for the Arts were referred to as achieving the most progress and with the best record of endeavour. It is important to put any reply on this issue in that context.

South Australia does enjoy a good reputation. Our record in providing not only adequate but excellent arts and cultural education for our young people is second to none in Australia. As I indicated, the amalgamation of the arts and English areas within the Education Department is a matter on which I will have to seek a detailed report, and I shall be happy to provide that information to the Hon. Mr Davis when it is available.

COMPANY REGULATION

The Hon. K.T. GRIFFIN: I seek leave to make a brief explanation before asking the Attorney-General a question about the Commonwealth takeover of company regulation.

Leave granted.

The Hon. K.T. GRIFFIN: At the weekend the Liberal Government in New South Wales announced that it would oppose the proposed takeover of company law by the Commonwealth Government. That announcement was opposite to the Unsworth Government's decision, which was to go along with the Federal Government's proposal. This now means that all State Governments and the Federal Opposition oppose the takeover. The Attorney-General has said previously that the South Australian Government opposed the Commonwealth proposal, although I must say that the Attorney has not gone as far as I would have liked him to go in agreeing that litigation to challenge the validity of the Commonwealth legislation was an option that the State would consider.

I have indicated that the Opposition would pursue as tough a line as possible in opposing any Commonwealth takeover of this area of the law. As a result of the weekend release of the Federal Opposition's attitude to the scheme and the New South Wales Government's position, the Federal Attorney-General, Mr Bowen, was reported earlier this week as saying that that would not in any way change the Federal Government's plans and that legislation was being drafted and would be introduced in Federal Parliament within the next few weeks. My questions to the Attorney are as follows:

1. Has the issue been raised at recent meetings of the Ministerial Council on Companies and Securities and, if it has, with what result?

2. Will the fact that the Commonwealth Government is now isolated on the proposed takeover strengthen the resolve of the State Government to fight the Federal Government's legislation?

The Hon. C.J. SUMNER: I am not quite sure what the honourable member is attempting to achieve with this question. There is no need to strengthen the State Government's resolve on this matter; our attitude has been made quite clear on a number of occasions, privately and publicly, namely, that we oppose the Commonwealth takeover. That is the position I have put to the Federal Government, both directly to the Federal Attorney-General and also through the Ministerial Council.

The Hon. Mr Griffin says that the Federal Opposition now intends to oppose the Federal takeover, and it is interesting that it has eventually come around to that position, at least according to the Hon. Mr Griffin. I have not seen any reports of that statement. No doubt Senator Hill, former President of the Liberal Party in South Australia, is hanging out to dry all on his own. Senator Hill was a member of the Senate Standing Committee on Legal and Constitutional Affairs—a committee comprised of the major Parties, which unanimously recommended that the Commonwealth legislate and take over the areas of companies and securities legislation. The committee concluded in its recommendation that it should be a Commonwealth takeover supported by—

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: Just a minute! It was the President of the Liberal Party in South Australia at the time, Senator Robert Hill, who was left to hang out to dry.

The Hon. T. Crothers: Is he a wet?

The Hon. C.J. SUMNER: He is very wet. They are trying to dry him out on the line at the moment because he was severely rolled, apparently by the Federal Party. Another one, Senator Puplick, apparently now some kind of shadow Minister in the Federal Opposition and also a member of the Senate Committee on Legal and Constitutional Affairs, albeit also a wet in the Liberal Party, supported the Commonwealth takeover, too. Those two have been left for dead.

Indeed, earlier in the piece it was true that the Federal Opposition toyed with a partial—

The Hon. K.T. Griffin: It's not so.

The Hon. C.J. SUMNER: I am sorry—it is so! Mr Howard in the Parliament suggested a split scheme—the most absurd proposition that has ever been put in this area since discussion arose—and that was opposed totally by all State Attorneys-General, Liberal, National Party or Labor Party. Howard's proposition was that we could have a Commonwealth takeover of legislation with respect to public companies listed on the Stock Exchange and individual State legislation, different in each State if you like, to deal with private companies. That was his proposition. It was picked up for a while by the Federal Attorney but, eventually, was canned as being utterly unacceptable to everyone. It would have been a disaster for the business community in this country. It was certainly opposed very strongly by me. We have to realise that apparently until a few days ago the Liberal Opposition in Canberra had not come out and opposed the Commonwealth takeover. That means that Mr Griffin and company, presumably through the Federal council, have won the day and bounced the wets. They got rid of Senator Hill and Senator Puplick with their ideas on the matter.

I mention that to indicate that it is not just the Federal Government pursuing this but certain elements hitherto in the Liberal Party in Canberra, including an up until now influential senator from South Australia, Senator Hill—no less than the President of the Party in South Australia when he made those recommendations.

Members interjecting:

The Hon. C.J. SUMNER: That is the sort of person about whom you are talking—a person of that stature in the South Australian Party when he made those recommendations. On this issue he has obviously been rolled by the Hon. Mr Griffin. He will have to scuttle off and find another issue. He has certainly been done on this issue.

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: Of course you do—so do we. We can refer to a number of issues, such as the ID card in the Federal Parliament, on which a Senate select committee was formed and we saw a Labor Party split. We also had the Murphy inquiry.

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: Just a minute! We had a select committee in relation to the Murphy affair and Labor members on that select committee were split. I am pointing out to the honourable member that he has won the day and smashed Senators Hill and Puplick. The drys are in the ascendancy in South Australia. That is all right—it is a matter for the Liberal Party and does not bother me particularly.

Members interjecting:

The Hon. C.J. SUMNER: I am making the point that it is not just the Federal Labor Government attempting to legislate nationally on this issue but also up until now has been supported by prominent and influential members of the Liberal Party.

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: You are saying that they are not prominent. The Hon. Mr Griffin is saying that Senator Hill is not prominent. I do not know how one can be more prominent in South Australiia.

The Hon. K.T. Griffin: I said it has not been prominent—you are talking about the concept.

The Hon. C.J. SUMNER: You are getting into trouble.

The Hon. K.T. Griffin: You are talking about the concept.

The Hon. C.J. SUMNER: The concept has not been prominent? Senator Rae suggested it early in the 1970s. Was he or was he not a Liberal member in the Federal Parliament? Was he from the Labor, National or Democrat Party? He is now a Minister in Tasmania. They sent him back there because they did not like what he said on that occasion. The issue has been around for that long. I would have thought that the Hon. Trevor Griffin would realise that it has been around for a long time.

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: Do not say that it has not been a prominent issue—it has been argued in the Federal Parliament up hill and down dale since the early 1970s—promoted then by Senator Rae.

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: If you will stop interjecting, I will get to the bottom line.

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: I will come to that in a minute. Differing views exist within the Liberal Party on this topic and indeed in the National Party, with prominent Liberals throughout the 1970s and the 1980s supporting the action being taken by the Labor Government federally. As far as the State Government is concerned—

The Hon. K.T. Griffin: It was a Liberal Government that introduced the co-operative scheme.

The Hon. C.J. SUMNER: I know that—you did not have to make that interjection. I will repeat, as the honourable member wants it repeated, that prominent people in the Liberal Party in the Federal Parliament have supported the actions being taken by the Commonwealth Labor Government presently and have supported it over many years. The most recent persons supporting it have been no less than shadow Minister Puplick and Senator Hill, former President of the Party in South Australia.

I have reaffirmed in this House and out of it at public and private gatherings that the State Labor Government is opposed to the Commonwealth takeover. We prefer the cooperative scheme. I have also said that we would consider amendments to the cooperative scheme which would go some of the way to overcoming the problems identified by the Senate Committee on Legal and Constitutional Affairs. Basically its argument was the lack of political accountability in the cooperative scheme. There is no one Parliament to which the legislation is committed and to whom the administrators of the legislation are responsible. That was the principal philosophical problem found by the Senate Committee and supported by Senator Hill.

In South Australia, we support the cooperative scheme and we are prepared to examine some matters that will assist to overcome the problems identified by the Senate select committee. One was that the Commonwealth should be the permanent chair of the ministerial council, and there are certain other issues, which are currently in stages of discussion between the Federal Government and the States and which I cannot go into.

The situation at the present time is that the matter has been discussed at recent Ministerial Council meetings and it was discussed at the last meeting. Discussions are proceeding between the Commonwealth and the States to see whether there is any chance of a compromise which will keep the Federal cooperative scheme intact but deal with the issues which have been of concern to Federal Parliamentarians. We will not know for a few weeks whether there has been any success in those negotiations, but those negotiations, without individual Governments having been committed, have been supported by all Attorneys-General in the Ministerial Council, including Queensland, the Tas-

manian Liberals, and the Labor Attorneys. If those negotiations come to nothing, then presumably the Commonwealth will proceed with the scheme as it has already outlined. The South Australian Government does not believe that it should and I reaffirm its opposition to the abolition of the cooperative scheme.

SOUTH AUSTRALIAN ORAL SCHOOL

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister of Tourism, representing the Minister of Education, a question about the South Australian Oral School.

Leave granted.

The Hon. M.J. ELLIOTT: The oral school is the only one in South Australia that provides oral education with parental guidance as soon as the child's hearing loss is confirmed. The school provides a visiting teacher and monitoring service for hearing impaired children who wear hearing aids and for educationally disadvantaged children who are already integrated into non-government schools. Apparently, this service is already over committed. It claims that it needs an additional 1.5 teaching staff. The school's facilities are also used for kindergarten classes and apparently there is a very large demand to place additional hearing and hearing impaired children of kindergarten age into the service. That is seen to be important, so that role models can be set for normal childhood development.

The school's funding is provided from donations and, principally, subsidies from the Education Department of South Australia, and also from the Department of Employment, Education and Training. Those departments are considering funding levels for our State under the Special Education Ministerial Consultative Committee which is chaired by Dr David Thomas and comprises members from Government and non-government schools and State and Federal departments. Apparently the financial statements for the past two years have shown deficits: for 1986, there was a deficit of $45 000; for 1987, there was a deficit of $41 000; and for 1988 the estimated deficit is $47 000. That deficit was estimated on the assumption that there would be a 4 per cent salary increase over and above incremental increases.

In 1984 a working party inquired into the education of children with hearing impairments and recommended that the South Australian Oral School accept greater responsibility in providing services to independent schools and that it appoint a coordinator of visiting services for children with hearing impairments in non-government schools in the metropolitan area. These recommendations were approved by the then Minister of Education (Hon. Lynn Arnold) and that necessitated an increase in teaching staff at the school along with increased associated travelling costs. People who have contacted me have suggested that it is very unfair that the school should be asked to take on these extra responsibilities (which of course they were only too happy to do) and then, shortly after doing so, they have their funding cut.

The figures that have been shown to me indicate that this year they have had a 4 per cent actual cut and, allowing for inflation of about 6 per cent, in real terms they have had a cut of about 10 per cent in funding while there has been an increasing demand on their services. If the school does not receive the level of funding required, how does the Minister of Education envisage continuing the basis of equal opportunity for educating hearing impaired children?

The Hon. BARBARA WIESE: I will be happy to refer that question to my colleague in another place and bring back a reply.

PARLIAMENTARY BEHAVIOUR

The Hon. T. CROTHERS: I seek leave to make a brief explanation before asking the Minister of Health a question about quotes attributed to the Hon. Murray Hill which appeared in the *News* of 13 April 1988.

Leave granted.

The Hon. T. CROTHERS: In an interview given to Mr Geoff Jones of the *News* by the Hon. Mr Hill, he revealed his concern about the behaviour of South Australian members of Parliament and placed some emphasis on their public image. I am sure that all members would agree that that statement is pertinent and a matter of some political moment at this stage. Further, I am sure that all members would agree with me when I say that one of the perceptions that the South Australian public has of its politicians is that they are concerned only, in the main, with advancing opinions which favour their own political Party, thus leaving out the matter of equity and political fair play.

Given that the article centred on quotes attributed to the Hon. Dr Cornwall, made in this Council and, in the interests of fair play, I ask the Minister of Health the following questions:

1. Was he approached by Geoff Jones to comment on the behaviour of South Australian Parliamentarians?

2. Does he find current parliamentary decorum worrying and, if so, where does he think the fault lies?

3. As a matter of record, given that the Hon. Mr Hill is about to retire, would he care to place on public record his regard and respect for the Hon. Mr Murray Hill?

The Hon. J.R. CORNWALL: In a sense, this is 24 hours premature. I have enjoyed sitting opposite Murray Hill now for almost 13 years. I enjoyed that time particularly when I have been sitting on this side of the Chamber and looking at him sitting on the other side. However, when I sat on the front bench in Opposition for three years, initially at least, I pursued Mr Hill, as Minister of Local Government, vigorously, but I think with fairness. He withstood all those tests; he was always given a hearing.

When he was on his feet as a Minister of the Crown, during that period between 1979 and 1982 the Hon. Mr Hill was never greeted by a constant barrage of abusive interjections. I believe that Mr Hill was almost always heard in reasonable silence whenever he rose. He was accorded the respect which is due to the office of a Minister of the Crown. Regardless of whether or not one feels a warm personal regard for a Minister (whether it is my warm personal regard for Mr Hill, or his for me), or whether or not one feels a personal dislike (and obviously we do not all love one another in this Chamber, and I might say that I am eternally grateful for that), certain proprieties ought to be observed.

In relation to the matter of fair play which was raised by the Hon. Mr Crothers, who, with his Irish background, knows a good deal about a sense of fair play as well as the lack of it—but Mr Lucas seems to find that a laughing matter. I would have thought that the troubled times and history of the divided country of Ireland would not be a laughing matter. Earlier in Question Time I outlined some of the constantly abusive tactics which the Opposition uses against me in this place. I do not want to go through them today.

The Hon. M.B. Cameron interjecting:

The Hon. J.R. CORNWALL: There are literally scores, if not hundreds, of examples of the abusive tactics that are used against me by this Opposition in Question Time and at other times. Often the competition is so great that they are abusing in chorus, as it were, and individual abusive and unparliamentary interjections do not even get into *Hansard.* That is not *Hansard's* fault; the best it can manage when Mr Cameron, Mr Davis, Mr Lucas and Mr Dunn, among others, are chorusing simultaneously is to put in 'Members interjecting'.

I regard this as a very serious and important matter. I have to put up with it on a daily basis whenever Parliament sits. There is a constant tirade of abusive interjections, usually as soon as I get to my feet, and often they are quite continuous throughout my replies. If the Opposition is able to elicit some response from me it takes it out of context and tries to do a selling deal, so it is picked up in *Back Chat* a few days later or in something like the Geoff Jones article that appeared in the *News* today. The remarks that I made in response to a constant barrage of abuse from the Opposition during the Committee stages of the Tobacco Products Control Bill were made between 1 o'clock and 4 o'clock in the morning. I repeat that they were often made in response to this usual tactic of a constant barrage—

The Hon. M.B. Cameron interjecting:

The Hon. J.R. CORNWALL: Here it is again—a constant barrage of abusive interjections. The Opposition then sneaks off in its own deceitful and dishonourable way to find a journalist who was not in the Chamber and sell him distorted one-off stories.

Let us look at a few of those stories in the interests of fair play. This will all be on the *Hansard* record tomorrow and I can assure you that I will be out selling it to my mates in the gallery.

The Hon. L.H. Davis: You're the Prince of Paranoia.

The PRESIDENT: Order!

The Hon. J.R. CORNWALL: Mr Davis is at it again. He has called me the Prince of Paranoia which presumably, Ms President, is parliamentary language as you are allowing it to go unchallenged. I will not go into the scores of abusive and unparliamentary remarks that have gone on to the record; I will pick just a few. I have a much bigger file than this in my office.

Members interjecting:

The PRESIDENT: Order! Order!

The Hon. J.R. CORNWALL: In the interests of fair play, on this occasion let us look at some of the hundreds of abusive and unparliamentary interjections that have been made during this constant tirade of abuse over a period of five and a half years. I will not take up all the time of the Council, but this has been going on for a long time. On 23 August 1983 the Hon. Mr Davis when addressing me across the Chamber—and it is on the *Hansard* record—said, 'You are just a refugee from Psycho'.

Members interjecting:

The Hon. J.R. CORNWALL: They find that amusing. Apparently we have two rules.

Members interjecting:

The PRESIDENT: Order! I know that tempers are getting frayed as the end of the parliamentary session approaches.

Members interjecting:

The PRESIDENT: I am calling for order and when I am on my feet it is completely contrary to Standing Orders for anyone to speak.

The Hon. J.R. CORNWALL: Why don't you name him? He has carried on like this—

The PRESIDENT: I will name members if this continues. I am reluctant to do so—there have only been three people named in the history of this Chamber—but I am quite prepared to do so and add a fourth, fifth and sixth name if necessary. These repeated interjections must cease. The Minister has been asked a question which is perfectly in order. He has the right to reply to it. The honourable Minister.

The Hon. J.R. CORNWALL: These are the dishonourable people who sneak off, take the *Hansard* record selectively between 1 o'clock and 4 o'clock in the morning when the Tobacco Products Control Bill filibuster was going on, when the Opposition had filibustered into the wee small hours of the morning, and do not say, 'This is what the Hon. Mr Cameron, the Hon. Mr Davis and the Hon. Mr Lucas called the Minister,' and when I draw their attention to the fact that the Hon. Mr Davis, amongst scores of abusive and unparliamentary interjections, referred to me as 'a refugee from Psycho' they fall about laughing.

The Hon. C.M. Hill interjecting:

The Hon. J.R. CORNWALL: This is a matter of grave concern to the Hon. Mr Hill. Where are your standards, Mr Hill? It is a matter of grave concern to you when you are putting up or manufacturing a story for a reporter from the *News* who has not been near this place during Question Time in the 13 years that I have been in this place. That is not a reflection on the reporter because he trusted you. In other circumstances he would have a right to trust you because over the many years you have been in this place, by and large you have acted honourably, but you obviously conspired with your dishonourable mates on this occasion.

What did Mr Cameron have to say about me? He is another one who is concerned about the fall in parliamentary standards. What did Mr Cameron have to say about me on 23 March 1984? This is not a new trick.

Members interjecting:

The Hon. J.R. CORNWALL: It is a matter of great—

The Hon. M.B. Cameron: I change my mind; you are worse.

The Hon. J.R. CORNWALL: There you go—two standards: one standard for these honourable gentlemen opposite who can call me anything. What did Mr Cameron call me—a dog.

Members interjecting:

The Hon. J.R. CORNWALL: That is funny. By the Opposition's standards, to be continually abusive across the Chamber and refer to me as a dog, is funny. To refer to me as a refugee from Psycho is not apparently an erosion of Mr Hill's standards.

The Hon. R.I. Lucas: That is an insult to the residents of Glenside.

The Hon. J.R. CORNWALL: Mr Lucas says that it is an insult to the residents of Glenside. They are at it still. This is the double standard, the disgraceful and dishonourable double standard of which I speak. Mr Cameron said, 'A dog. In the end I had to have him put down.'

Members interjecting:

The Hon. J.R. CORNWALL: That is funny; they are falling about laughing. What about the dishonourable Mr Lucas? What did he have to say on 11 May 1987? This constant abuse has continued through 1983 and 1984 through the years to 1987 to as recently as today. What did Mr Lucas have to say? He said, 'You're like a rabid dog'. He was referring to me. Again, Mr Cameron is falling about laughing. Let that be on the *Hansard* record: Mr Lucas's description of the Minister of Health as a 'rabid dog' causes Mr Cameron, who apparently shares Mr Hill's concern for falling parliamentary standards, to fall about laughing. Of course, I took a point of order on that occasion and asked Mr Lucas to withdraw and apologise. What did he do? This

is young Mr Lucas, he who would be king. He has this great sense of priority, we are told, this sense of history and decency. This is the dishonourable Mr Lucas who, during the course of this session, stood naked in his deceit. What did he have to say when he was called upon to withdraw as recently as May last year. He said, 'Mr Acting President, let me help you by saying that I am happy to withdraw the description of the Minister as a rabid dog; it would be an insult to dogs'. Again Mr Cameron is laughing and falling about. That is the double standard—

The Hon. M.B. Cameron interjecting:

The PRESIDENT: Order! Order!

The Hon. J.R. CORNWALL: It is a great performance!

The Hon. M.B. Cameron interjecting:

The PRESIDENT: Order!

The Hon. M.B. Cameron interjecting:

The PRESIDENT: Order!

The Hon. J.R. CORNWALL: It is a characteristic performance. If we are interested in falling standards and in the good conduct of this Council, let us start by having a bit of order during Question Time and a sense of fair play.

PERSONAL EXPLANATION: MINISTER'S REMARKS

The Hon. C.M. HILL: I seek leave to make a personal explanation.

Leave granted.

The Hon. C.M. HILL: The Minister has just claimed that I sneaked off and found a Mr Geoff Jones—

The Hon. J.R. Cornwall: No, you didn't sneak off to find him; you sneaked off with this selective report.

The Hon. C.M. HILL: I am sorry, but when the Minister was on his feet he said—and I wrote it down—that I sneaked off and found a journalist like Mr Geoff Jones. The Minister also claimed—to use his own words—that I conspired with my mates in some form of preparation of the article that appeared in the *News* today. He accused me of lowering my standards because of the article, and he said that I put up a story, or that, together with Mr Jones, I put up a story.

The Hon. J.R. Cornwall: No, together with your mates on that side.

The PRESIDENT: Order!

The Hon. C.M. HILL: I simply want to explain to the Council that Mr Jones came down here on Monday of this week to take some details from me, because he said that he would like to write an article about me in view of the fact that I was retiring from this place this week. In a series of questions that he—

The Hon. C.J. Sumner interjecting:

The Hon. C.M. HILL: From this House, I said.

The Hon. C.J. Sumner: You are not going this week.

The Hon. C.M. HILL: From this House, not this Parliament.

The Hon. C.J. Sumner: We might sit again.

The PRESIDENT: Order! A personal explanation is usually heard in silence.

The Hon. C.J. Sumner: That wasn't accurate.

The PRESIDENT: Order! Whether it is accurate or inaccurate is irrelevant.

The Hon. C.M. HILL: No, I want everything accurate when I am on my feet, Madam President. Mr Jones wanted to write an article because I had given public notice of my intention to retire from Parliament mid-year, and he and I both expected that this week would see the last of me in this Chamber, because we expected this sitting—

The Hon. J.R. Cornwall: How did the question of standards arise during this interview?

The PRESIDENT: Order!

The Hon. C.M. HILL: I don't know what the Minister means by that interjection. What do you mean?

The Hon. J.R. Cornwall interjecting:

The PRESIDENT: Order! The interjection is out of order, and a personal explanation must be addressed to the Chair.

The Hon. C.M. HILL: All right. Well, they should not be provoking me to answer their interjections, which you, Madam President, should not be allowing, with respect.

The PRESIDENT: Order! The honourable member has been here long enough to know that he does not have to take any notice of them.

The Hon. C.M. HILL: Well, you have been here long enough, Madam President, to know that you should not allow them. I am deeply hurt by the accusations of the Minister that I in some way connived to prepare and have presented this article, in which, frankly, the Minister has come out in a bad light.

The Hon. J.R. Cornwall: 'Members' plural suddenly became singular; the member that you were concerned about was me—

The PRESIDENT: Order!

The Hon. C.M. HILL: Madam President, I just wanted to say that one of the questions in that interview with Mr Jones was, 'What is your opinion of the standards of behaviour of members of Parliament within Parliament itself?' In reply I indicated that I did not think they were very good, that that was a great shame, and that the remedy for that should be in the hands of the members themselves and their respective Parties. That is where the questioning and answering on that particular issue of parliamentary standards ended. When speaking to Mr Jones I made no reference at all to Dr Cornwall. I made no reference to him at all in regard to saying that perhaps it might be wise to read *Hansard*. I did not take any part at all in the preparation of that article which has upset Dr Cornwall other than simply to say in reply to a question asked by Mr Jones that in my honest opinion I did think that the standards of parliamentary procedure within the Parliament itself had declined. I therefore categorically deny his claim that as a result of that article my standards have declined.

The Hon. J.R. Cornwall: You've been used by the reporter, in that case. The total story has been hung on you and you ought to be very angry.

The Hon. C.M. HILL: I can only say, Madam President, that the Minister is making a complete ass of himself—utterly and completely—by these continued interjections. I simply wanted to explain that I played no part at all, nor did I consult with any of my colleagues, in regard to that article.

The Hon. J.R. Cornwall: But you almost got it wrong. You almost said—

The PRESIDENT: Order!

The Hon. C.M. HILL: Well, I have called the Minister an ass, and I cannot really emphasise that any more as a result of these interjections that he is making, I deny absolutely that I took part in the preparation of the article or that I was involved in any suggestions on what sort of line the article should take. Indeed, I thought that that question and answer in my interview with Mr Jones would be part of the principal article—which I notice he has put in the paper on page 23—apart from the particular article to which the Minister has taken objection. So, it upsets me that the Minister should take the line that he has taken and criticise me as a result of this issue.

The PRESIDENT: Call on the business of the day.

PARKING AND TRAFFIC CONTROL

Order of the Day, Private Business, No. 1: Hon. G.L. Bruce to move:

That by-laws under the South Australian College of Advanced Education Act 1982, concerning parking and traffic control made on 11 February 1988, and laid on the table of this Council on 16 February 1988, be disallowed.

The Hon. G.L. BRUCE: I move:

That this Order of the Day be discharged.

Order of the Day discharged.

PERMITS AND RESERVED AREAS

Order of the Day, Private Business, No. 2: Hon. G.L. Bruce to move:

That by-laws under the South Australian College of Advanced Education Act 1982, concerning permits and reserved areas made on 25 February 1988, and laid on the table of this Council on 1 March 1988, be disallowed.

The Hon. G.L. BRUCE: I move:

That this Order of the Day be discharged.

Order of the Day discharged.

ASSENT TO BILLS

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

Road Traffic Act Amendment (1988),

Strata Titles.

CHRISTIES BEACH WOMEN'S SHELTER

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

1. That a select committee of the Legislative Council be established to consider and report on the circumstances and the validity of claims made against the staff of the Christies Beach Women's Shelter which resulted in the withdrawal of funding from the shelter.
2. That the committee consist of six members and that the quorum of members necessary to be present at all meetings of the committee be fixed at four members and that Standing Order No. 389 be so far suspended as to enable the chairperson of the committee to have a deliberative vote only.
3. That this Council permits the select committee to authorise the disclosure or publication, as it thinks fit, of any evidence presented to the committee prior to such evidence being reported to the Council.

(Continued from 6 April. Page 3773.)

The Hon. J.R. CORNWALL (Minister of Health): I oppose the establishment of a select committee on issues relating to the Christies Beach Women's Shelter, as proposed by the Hon. Mr Elliott and supported by the Hon. Ms Laidlaw. Such a committee would inevitably involve the Council in a political witchhunt (indeed, I think the Opposition's participation in it is on that basis) which might substantially and quite unnecessarily damage the good reputation of women's shelters generally in South Australia by providing a forum where not only fact but also a plethora of allegations can be pursued under parliamentary privilege. I think that no good can come of that.

Throughout the debate that has followed the Government's decision to withdraw funding from the Christies Beach Women's Shelter, I have very carefully resisted any temptation to use the privilege of Parliament to canvass the allegations referred to by the Hon. Mr Elliott. Members will be aware that at the time of my announcement of the defunding of the shelter I also informed the Council that these allegations had been referred to the Commissioner of Police and the Commissioner of Corporate Affairs, and the officers of both those organisations have investigated the allegations carefully. I am informed that charges against certain former staff of the Christies Beach Women's Shelter are still proceeding, and it would certainly be most improper for any member to canvass these matters whilst court proceedings are still to be completed. They cannot be canvassed (and nor should they be) in this Chamber, and at least in the initial stages they will not be able to be canvassed by the proposed political select committee.

In respect of the reasons for the defunding of the shelter, I reiterate my statement of 11 August last year that I had accepted the recommendation of the review committee to withdraw funding (and I quote directly from that revised committee report) 'in view of the maladministration, both historically and current, of the shelter and in view of uncertainty as to whether services to clients were both fully available and appropriate'.

The Government's decision at that time (and it was a Cabinet decision, not a decision of the Minister), made with the concurrence of the then Federal Minister, Senator Susan Ryan, was not made on the basis of the allegations referred to by the Hon. Mr Elliott. I have made that clear in this Chamber and to Mr Elliott on a number of occasions. The decision was certainly not made on the basis of the allegations but was made on the basis of the failure of the Christies Beach Women's Shelter to properly conduct the business of that shelter and, in particular, to observe appropriate accountability procedures as required by the State and Federal Governments. Both the State and Federal Governments not only had a right but indeed had an undeniable duty to insist on that financial accountability because we were dealing with public funds—taxpayers' money.

I note that the Hon. Ms Laidlaw, in supporting this motion, bound as she was by her Party room to do so, reiterated her Party's position that the Liberal Party has 'always insisted on financial accountability of any organisation in receipt of Government support or grants'. I find it inconsistent, to say the least, with this position that she opposes the action taken to enforce a measure of financial accountability for this service. Only yesterday in this place the Hon. Mr Griffin was on his feet asking questions concerning the financial accountability of other non-government organisations, and I applaud him for that.

Of course, in my position as Minister of Community Welfare and Minister of Health I literally fund many hundreds of non-government organisations, and the amount of funding ranges from a few thousand dollars to millions of dollars. In regard to all those organisations, we insist without fear or favour that, while they have a right (and no-one contests that right) to a great deal of independence in their operations, the one thing in which they do not and must never have total independence is financial accountability. If people are given public money, they must account for it; if they are given public moneys for the good conduct of any service, the *quid pro quo* is that that service will be timely, appropriate and adequate. Concern was expressed by the review committee (and I return to its recommendations) as follows:

In view of the maladministration, both historically and current, of the shelter and in view of uncertainty as to whether services

to clients were both fully available and appropriate, the shelter should be defunded.

So, we had everything—all those reasons—and they were very adequate in themselves. We did not have to worry about alleged breaches of anything that might be of concern to the Corporate Affairs Commission; we did not have to worry about allegations that had been made that would have, if they had been proven, involved criminal charges. We left all that aside. There were quite adequate grounds because of the maladministration, both historically and current, and a deep concern about the quality of the services that were being delivered and as to whether they were fully available and appropriate. So, Ms Laidlaw takes a most strange position which is inconsistent with the position she has consistently espoused in this place and, indeed, inconsistent with the position that is normally espoused by her Party.

Of course, the Opposition is prepared to pay lip service to the need for financial accountability but, when members opposite see the opportunity for some sort of cynical political exercise or the opportunity to go witch-hunting, particularly if that witch-hunting directly or peripherally can involve the Minister of Health and Community Welfare, they never let an opportunity pass them by. Honourable behaviour and ethics have nothing to do with it as far as members opposite are concerned if there is any opportunity, no matter how slim and tenuous, to get themselves involved in a political witch-hunt that might in any way involve me.

As I said, it is strange that Ms Laidlaw and her Party, the Opposition, are prepared to pay lip service to the need for financial accountability but are not prepared to support action that in the end must be taken regarding any organisation that continually refuses to comply with very basic requests for financial accountability. In her speech supporting the establishment of the select committee, as I said at the direction of her Party room, Ms Laidlaw once again attacked officers of the department. She is very clearly ill-informed in her statements, especially when she says:

I understand that the other recommendations—44 of them—have not been acted upon by the department or by the Women's Shelter Housing Advisory Group.

This statement indicates a very incomplete understanding (indeed, if I was less charitable I might say a complete ignorance) of both the nature of the 44 recommendations and the actions that have been taken in response to them. In fact, the department prepared a detailed response involving each of the 44 recommendations and it has taken action to follow through these recommendations. Many of the recommendations involve cooperation between service providers and the department, and I am particularly pleased to inform the Council that there has been a great deal of cooperation with service providers in implementing these proposals.

A number of the recommendations related to the financial management and administration of shelters. The department has commissioned Ms Margaret Hunter, Acting Executive Director of SACOSS, to develop a financial administration package that will give management committees, staff and the department a more accurate basis for planning, accounting for and auditing the finances of women's shelters. This accounting package has been discussed in detail at a forum to which all women's shelters were invited, and it is anticipated that the package will be in operation as from 1 July this year. It is very pleasing to note that all women's shelters have been cooperative in this matter.

In conclusion, I wish to remind the Council of the particular events that led to the defunding of the shelter. First, on 26 November 1986 (although, of course, I had been concerned about the good conduct of the Christies Beach Women's Shelter for a very long time before that) I announced the establishment of an Independent Committee of Review of the Management and Administration of Women's Shelters in South Australia chaired by Ms Judith Roberts.

The review was established because of my concerns about the administrative practices of some women's shelters, practices which included the running up of large deficits and a continued refusal of some shelters to sign the usual financial agreement with the Government. Apart from the particular concern about the Christies Beach Women's Shelter, I was at pains to take action to ensure that, in the question of domestic violence as a major first plank we had an effective, efficient and well conducted network of women's shelters around the State.

That is now in place, I am happy to say, and as a consequence, and as part of the on-going commitment to combat domestic violence, I have this very day been able to announce at a press conference formally the appointment of Carmel O'Loughlan as Director of the South Australian Anti-Domestic Violence Unit and the appointment of Superintendent Robert Lean as Chairman of the Standing Committee Against Domestic Violence. That is the second significant thing that has been done. We have a network of shelters which are under considerable pressure because of the continuing belief by a worrying proportion of the population that domestic violence is not as serious as concerned members would have us believe. It is worrying indeed to see in a recent survey that one adult in five seems to believe that some degree of domestic violence can be tolerated. Perhaps the one thing I share in common with Ms Laidlaw is a deep concern about that matter.

The first step was taken to ensure that we have a very adequate basis on which to expand the Anti-Domestic Violence Unit in South Australia, to be able to say as part of a campaign that every person in this State has a right to feel safe at home. That was the other basis on which this review was established.

On 15 September 1986 the department wrote to all women's shelters requesting that they sign the financial agreement that had been agreed to by representatives of Crown Law, the Department for Community Welfare and women's shelters. However, the Christies Beach Women's Shelter continually refused to sign this agreement. Even as late as 11 June 1987, at a meeting convened by the Department for Community Welfare's Chief Executive Officer, both the then chairperson of the management committee at Christies Beach and Ms McSkimming, Treasurer and Acting Administrator of the shelter, reiterated the management committee's decision not to sign the financial agreement. At the eleventh hour, on 27 July 1987, my office received a copy of what purported to be a signed agreement from the Christies Beach Women's Shelter. However, an important section of the agreement, requiring accountability for expenditure according to the lines of the budget allocation, had been crossed out. Therefore, the Christies Beach Women's Shelter did not sign the financial agreement as agreed to by shelters in the department but signed a fundamentally altered document only after the Corporate Affairs Commission had already begun investigations into its financial administration.

On 11 August 1987, I tabled the findings of this review in this place and, at the same time, announced that the Commonwealth Minister and I had accepted the review's recommendation that the Christies Beach Women's Shelter be defunded. I stress that that had the full endorsement of the South Australian Cabinet. I stress also that it was not a

hastily taken decision but a matter carefully considered by an independent committee as well as the South Australian Cabinet and the responsible Federal Minister, Senator Susan Ryan. I remind the Council that, since the defunding the service for women and children victims of domestic violence in the southern areas of Adelaide has been maintained. In fact, there was never any period in which there was not a service available in the southern suburbs. I am pleased indeed with the progress of the southern areas women's shelter which has now been running successfully in the southern areas for more than six months.

I repeat what I said at the outset: I strongly oppose the establishment of a select committee which will serve no constructive purpose and which, on all indications, will be little more than a cynical political witch-hunt. In the course of that political exercise and witch-hunting, it may well do very considerable damage to the reputation of women's shelters in South Australia generally at a time when the Government is seeking to increase community understanding of the nature of domestic violence. The good reputation of women's shelters is an essential part of this community's education program and no good at all can come from a select committee. It is, as I said in this place last week, a most regrettable step backwards in the politicisation of the select committee process of the Upper House, which has served us so well over the 13 years I have been a member, particularly recently with the select committee report on adoption which was perhaps the paradigm of the way in which our Upper House select committee process ought to work. It is lamentable in these circumstances that the select committee process is being bastardised for what can only be described as base political purposes.

The Hon. M.B. CAMERON (Leader of the Opposition): As indicated by the Hon. Ms Laidlaw, the Opposition supports the move for a select committee. However, I wish to move an amendment to the motion moved by the Hon. Mr Elliott as follows:

Paragraph I—Leave out all words after 'circumstances' and insert the following:

which resulted in the withdrawal of public funding from the Christies Beach Women's Shelter in September 1987; the implications for management committees, and staff of shelters in consequence of the precedent set; and related matters.

I regret that the Minister sees the matter in this way as it is not the intention. He seems to be in a state of paranoia today for some reason. He is not making rational statements about matters coming before the Council. I regret that because it is certainly not my intention to go on a witch-hunt. It is essential that we get to understand what was behind this matter.

I have listened to the case put forward by the women affected quite dramatically by this move and have heard some of the statements that were supposed to have been made. Some led me to have serious concern about the motivations of the withdrawal of funding. It might well be proved that what was done was justified, but members of this place sitting on a select committee are perfectly able to make that judgment and no doubt will do so. The matter should not be left unheard.

I do not want to go through and canvass all the issues, as I have no doubt they will be canvassed at the time. I am certainly interested in hearing the other side of the story, that is, the departmental side or that of anybody else who might give evidence at a select committee. Let us see in the finish just what is the situation. It has been said that those women have been affected personally in a very dramatic way to the extent that they are unable to find work because of the allegations made about them at the time. That in itself would be a serious matter if career paths have been affected. It has been said that, because they were not part of the Public Service, they had no protection. If that is the case, we have to look at the problem.

I am a great believer in people being able to have their say. After they have had an opportunity to have their say and conclusions are reached, I am sure that in this case that will be acceptable to all parties, but I say to the Minister that members of this Chamber are not on a political witch-hunt and he must not become paranoid. It is a matter of finding out the truth, which is very important in this case. It is not just a matter of court cases and whether it is proved that one account was misused or that another account was misused; rather, it is whether what occurred justified the action that was taken. I believe that, as responsible members of Parliament, we are perfectly able to make that judgment and come to a conclusion. The Opposition supports the motion.

The Hon. M.J. ELLIOTT: We are debating this motion to set up a select committee primarily because of the way in which the Minister has handled this whole affair. I do not know what he knows and what he has not told us: I only know what has been put to the public and what has been put to this Council. I began this matter by asking a few questions. I was approached by a few people who had been involved with the shelter and they raised some questions that I thought were worth asking. I asked those questions in the Council and the answers I received ducked the question. Unfortunately, I think that that happens too often and it leads to the sorts of problems that we have in Question Time. Frequently genuine questions that can be answered without any embarrassment to the Minister are skirted around and we are none the wiser.

The questions remained unanswered and these people still protested their innocence, so I moved a motion. Once again, that motion raised the whole question of the Christies Beach Women's Shelter. During the debate on that motion I attempted to put the arguments that had been put to me by the people who had been involved with the shelter and their rebuttals to the allegations made about them, and at least to me the rebuttals sounded reasonable. I put those rebuttals and once again the Minister did not address the issues; rather, he skirted around them. If he had other information, he could have presented it and, if the information that he had was so dangerous that it threatened the whole shelters' movement, then at the very least he could have made a private approach and said, 'You should really know these things,' but at no level was there any form of rebuttal from the Minister. The motion passed and an aside comment in the Chamber was that, even though the motion had passed, it would make no difference—and it has made no difference.

The Hon. J.R. Cornwall interjecting:

The Hon. M.J. ELLIOTT: You will have an opportunity now under this select committee.

The Hon. J.R. Cornwall interjecting:

The Hon. M.J. ELLIOTT: I am sure that you can arrange for your departmental officers to present those allegations.

The Hon. J.R. Cornwall interjecting:

The PRESIDENT: Order!

The Hon. M.J. ELLIOTT: Let me finish! If you talk about people who interject frequently, perhaps you could cease doing so yourself. The Minister stands in this place today and says, 'There are other reasons I have not told you about.' If one talks to any member of the public who is aware of the issue (and I am sure that many members of the public are not), their perceptions are that certain dread-

ful things were done and specific allegations were made (which I will not repeat at this stage) and which very clearly stuck in many people's minds. Whether or not those allegations are true is beside the point. They were printed in the paper. Certain allegations have been printed in the paper and they were made on television.

The allegations were all made under parliamentary privilege, so there has been no opportunity whatsoever for those people to have any recourse. As I said when I first moved this motion to set up the select committee, had the women been employees of the Government under the Government Management and Employment Act, at least they would have been told what the specific allegations were and they would have had a chance to rebut each of them. I do not believe that any such process has occurred and I have said that I do not believe that any form of justice has been carried out in this place. If administrators—

The Hon. M.B. CAMERON: I rise on a point of order. The Minister of Health just referred to the Hon. Ms Laidlaw as a contemptible poseur. I ask him to withdraw and apologise.

The PRESIDENT: I certainly did not hear the remark.

The Hon. J.R. CORNWALL: It is not surprising that you did not. It is the old Lucas caper. They want private conversations reported in *Hansard.* Mr Cameron—

The Hon. M.B. CAMERON: On a point of order.

The Hon. J.R. CORNWALL: Mr Cameron, I am on my feet making a submission. Mr Cameron, like the Hon. Mr Lucas, is entirely despicable.

The Hon. M.B. CAMERON: A point of order. I ask him to withdraw and apologise.

The PRESIDENT: He has the call to do so.

The Hon. J.R. CORNWALL: My submission is that what I may or may not have said to Ms Laidlaw privately was not in the context of the debate before this Chamber.

The Hon. R.I. Lucas: Fair game.

The Hon. J.R. CORNWALL: So is the private conversation—

The Hon. R.I. Lucas interjecting:

The PRESIDENT: Order!

The Hon. J.R. CORNWALL: —that the dishonourable Mr Lucas had with the Attorney-General.

The PRESIDENT: Order!

The Hon. J.R. CORNWALL: He attempted to put that on record. I do not believe—

The PRESIDENT: Did you make that comment just now?

The Hon. J.R. CORNWALL: I made a private comment to Ms Laidlaw across the Chamber. It is not in *Hansard.* It is not recorded anywhere. What I said is my business and Ms Laidlaw's business. I suggest that it is no-one else's business.

The PRESIDENT: I suggest that it was sufficiently audible for other people to hear it. While I myself—

The Hon. J.R. Cornwall: We've got some new laws in this session of Parliament.

The PRESIDENT: Order! You apparently made a comment in the Chamber which was sufficiently audible for someone to hear. I did not hear it. There was a considerable degree of interjection going on, despite my appeals earlier for interjections to cease, but I certainly did not hear it. I ask you: did you make that statement in the Chamber?

The Hon. J.R. CORNWALL: I am not prepared to discuss with you, Ms President, any private statement I may have made in the Chamber.

The PRESIDENT: I am afraid that I will not accept that, the honourable Minister. I have asked you whether you made the statement which somebody claims they heard you make.

The Hon. J.R. CORNWALL: We have reached a very funny pass in this Chamber, have we not? We have two sets of rules, quite frankly. We have this sort of conduct. The conduct of the Opposition during this session has reached an all-time low. If Mr Cameron wants to have private conversations and comments that are made between two members recorded in *Hansard,* that is all right by me. If they are to be the new rules, and if private conversations between members are to be raised in Question Time and during debate, that is all right by me—they are the new rules. I did refer across the Chamber *sotto voce* to Ms Laidlaw as—I cannot even remember what I called her, quite frankly.

The Hon. R.I. Lucas: Contemptible poseur.

The Hon. J.R. CORNWALL: Contemptible poseur—quite right, I did, in a quiet voice across the Chamber. It was a personal remark to Ms Laidlaw. It is not in *Hansard.* You, Ms President, did not hear it but, if it offends you that you did not hear it, or if it offends you or would have offended you had you heard it, and if we are to have this new set of rules where all private conversations in this Chamber are recorded in *Hansard,* then that is all right by me. I will withdraw and apologise under the new rules.

The PRESIDENT: If I may add, I do not invent the rules: I apply the rules by the book of Standing Orders. I have no rights or privileges other than those accorded by Standing Orders. I am not operating under a new set of rules.

The Hon. J.R. Cornwall: Can I make the point—

The PRESIDENT: No, I am speaking. I follow the rules in the Standing Orders. If there is a change of attitude by members in the Council, that may well be very regrettable, but I have no control over that. I have only the Standing Orders by which I can operate. I accept that you uttered the remark and that you have apologised for it. I call on the Hon. Mr Elliott.

The Hon. M.B. Cameron: I am the Leader of the Opposition and I am protecting my members from people—

The PRESIDENT: Order! You will cease interjecting when I call for order.

The Hon. M.B. Cameron interjecting:

The PRESIDENT: You are speaking now and I am on my feet. I call for order. Interjections on both sides of the Council will cease. The honourable Mr Elliott.

The Hon. M.J. ELLIOTT: If the administrators and staff have done wrong, they deserve to be exposed, but I must say that they have continued to proclaim their innocence most vigorously to me and others. To be honest, if I was guilty of various offences, the last thing I would want to do is to have a select committee set up knowing that everything could be brought forward and all sorts of exposures made. However, if I knew that I was innocent I would pursue most vigorously a chance for some sort of hearing and I think that the very eagerness with which they have continued to pursue an opportunity to have their case heard, bearing in mind the risk of exposure and of further allegations being made—

The Hon. Diana Laidlaw: They have no other channels.

The Hon. M.J. ELLIOTT: They have no other channels available to them and I think it is most unfortunate that we have got to this state of affairs. To suggest that it is a political witch hunt or anything else is absolute nonsense; nothing more or less.

I think that the committee would work without fear or favour. We have to get down to the truth of the matter and I do not believe that in the long run we will get a political

decision or report from the committee. The Minister may decide to disagree but, as I said before, he is responsible for us getting this far regardless of the merits or otherwise of the decision to defund. He expressed great concern about other shelters, but not one shelter or individual has come to me saying, 'Please don't proceed with this motion; we are afraid of what a select committee will do, that it will put us at risk.' In fact, quite the contrary has happened.

We only have to look at the demonstration that took place on the steps of Parliament House some months ago to see that. Members of other shelters were there in support of the people from the Christies Beach Women's Shelter because they were more fearful of the implications of the defunding when allegations could be made that may or may not be correct. There are great implications for such a move. I do not disagree that there should be accountability; no-one disagrees with that. In fact, if the Christies Beach Women's Shelter—or any other shelter or organisation—has failed to be properly accountable, it deserves to be brought to task. The Minister suggested that the shelter was not accountable by refusing to sign documents, but I believe that it was not the only shelter which would not sign the required documents. However, it was the only shelter that was defunded.

I think that there is a very real possibility—and we will not know for sure until the committee has looked at the evidence—that the decision could have been political as much as anything else. I must finish on one final point. I have not questioned at any time the work of the women who worked on the review committee. I have questioned the report but I commented during earlier debate that I felt the report was greatly reliant upon information supplied, and I doubt that the DCW supplied full and adequate records because for many allegations made in the report rebuttals were available within the files of DCW. DCW officers had written letters which refuted many of the earlier allegations that emerged in the report. I feel that the members of the review committee were put in a difficult position—at least that is the way it appears—and until the select committee reports we will not know who has been up to what, if indeed anybody has—but I am sure somebody has.

I support the amendment moved by the Hon. Martin Cameron because I believe that it offers an opportunity to look at protection for other shelters. Some people have read the amendment the other way around, but I will do nothing to undermine the women's shelter movement and I give an unequivocal promise here and now to that effect. I urge all members to support the amendment of the Hon. Mr Cameron.

The Hon. M.B. Cameron's amendment carried.

The Council divided on the Hon. M.J. Elliott's motion as amended:

Ayes (12)—The Hons J.C. Burdett, M.B. Cameron, 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.

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

Majority of 3 for the Ayes.

Motion as amended thus carried.

The Council appointed a Select Committee consisting of the Hons G.L. Bruce, J.C. Burdett, M.B. Cameron, T. Crothers, M.J. Elliott, and G. Weatherill; the committee to have power to send for persons, papers and records, to adjourn from place to place and to sit during the recess; the committee to report on the first day of the next session.

SCHOOL INTEGRATION POLICY

Adjourned debate on motion of Hon. R.I. Lucas:

That this Council expresses its concern at—

1. The failure of the Minister of Education to release publicly a copy of the Education Department's Working Party Report on 'Integration of Children with Disabilities'.

2. The failure of the Minister of Education to ensure the proper implementation of the Integration Policy in Schools.

(Continued from 30 March. Page 3679.)

The Hon. M.J. ELLIOTT: This might indeed be one of the shorter contributions made in this place. I believe that any motion which calls for the publication of a report that does not have a need for confidentiality, and indeed the report to which this relates does not, should be supported and, as such, the Democrats support the motion.

The Hon. BARBARA WIESE (Minister of Tourism): I shall respond to this motion on behalf of the Government, and I welcome the opportunity to set the record straight on the Government's commitment to the provision of special education services and its support for the integration of children with disabilities. The Opposition spokesman on education has been running around South Australia and upsetting people with his ill-informed comments on issues that are dealt with in this motion. If he knows of any cases where individual children have been disadvantaged, he ought to provide that information to the Education Department so that the situation can be studied in each case, instead of using individual cases to misrepresent the real gains that the Education Department is achieving in this area.

Copies of the working party's report were in fact provided to key people involved in the delivery of education services to children with disabilities, and the report has formed the basis on which the Education Department is moving in this area. The Government has, in fact, acted to develop the report's main thrust, namely, the integration of children with disabilities into regular schools or ensuring that they have access to other appropriate educational services.

The Hon. Mr Lucas has once again demonstrated his opportunism and shallow concern for young people by knocking the Government's approach to this sensitive area, by using vague and anecdotal examples to criticise the many caring teachers and support staff who work with children who have physical or intellectual disabilities. I recall that he also tried that particular knocking approach in relation to our schools by branding students as being cheats. He had no clear evidence on which to base his claims but he placed a slur on every student in secondary schools and on their teachers, by making unsubstantiated claims that were simply aimed at grabbing a headline, with little concern for the individuals involved.

The honourable member's professed condemnation of the Government over its sound and clear policies regarding the integration into the education system of children with disabilities is a further example. He cited a few examples, without providing any real evidence, and he used those unfounded examples as a basis for the claim that the Government is not acting in this area. In fact, there have been real and substantial increases in funding for special education, while policies and curriculum development for children are well under way in our schools. The Hon. Mr Lucas was proved wrong in his claim about cheating occurring in schools, and he is wrong about his claims in relation to special education.

The facts are clear. The Minister of Education took action to provide extra teaching and support staff salaries and funds to further the integration of children into regular

schools. Those actions are in line with the working party's report on the integration of children with disabilities. However, clearly, the development of policies and funding in this important area must be within the realms of economic and social reality. Is the Opposition suggesting that the proposal put forward by the working party should be implemented immediately? If the Opposition is suggesting that, then that would most certainly involve a substantial allocation of taxpayers' funds. Further, if that is what the Opposition is advocating, then members opposite must also make suggestions as to which services should be cut in order to make such allocations.

Rather, the Government is acting responsibly, in partnership with school communities, to develop the thrust of this report—which is to ensure that all children, regardless of their physical or intellectual capacity, have access to appropriate education services. The report has given the necessary endorsement to ensuring that a range of educational options is available for parents with children with disabilities. In primary schools these options may include part-time or full-time special classes or placement in a regular classroom with additional help. Trained experienced teachers, school assistants, professional development for teachers and guidance officer support are some of the supplementary resources that ensure successful placement.

A concise integration policy statement is being developed for school and parent information. This is under way and there will be opportunities given for community response. It will be based on both current policy and on information contained in the working party report on 'integration of children with disabilities'.

In his cover note to members of the working party, the Director-General of Education, Mr Steinle, highlighted that some recommendations needed further qualification and that implementation would occur over time. No restriction has been placed on the use of the report, but it is not in the form of a policy document and has not been promulgated as such. The integration working party report obviously confirms the present policy direction of the Education Department regarding definition and practice of integration.

The report presents arguments from theoretical bases to demonstrate the ways in which other countries and other States have conceptualised the resource issues. It does not prescribe a stance, let alone attempt to offer definite recommendations. For example, the key worker concept was supported following the report. Implementation is under way, for example, in the Western Area, which is developing this form of assistance to parents, in cooperation with the Children's Services Office. Further, the Southern Area has made a number of appointments that incorporate key worker support to parents of children integrated into local primary or secondary schools, and I refer, for example, to the Special Education Principal, Fleurieu Peninsula and the Special Education Coordinator, Southern Vales Outreach. The South Australian Education Department is working with the Intellectually Disabled Services Council in developing a system of key workers in the field of intellectual disability throughout South Australia.

As well as the Southern Fleurieu project and the Southern Vales Outreach project, other projects are being implemented. They include a new position in the Eastern Area, in Mount Gambier, to coordinate transition programs for senior students with disabilities. The coordinator is based at the Mount Gambier College of TAFE. In 1987 a new course was commenced at Sturt College for training teachers to work with children with hearing impairments, many of whom are integrated into local schools.

These examples show that the Education Department has an excellent record of working with parent groups, and it intends to continue to do so. As names have not been used by the Hon. Mr Lucas in the case studies that he has brought forward, it will take time for officers in the Education Department to receive accurate information regarding each situation. However, it has been possible, within the very short time available, to provide more details regarding the first case that the honourable member brought forward.

In the case study, there is considerable confusion between the types of support that have been allocated to ensure successful integration. This child has had additional school assistant time initially to assist with his difficult behaviour which threatened successful integration. His behaviour is now appropriate and no additional support is requested (and has not been requested for some time). He has had additional aide time to assist with supervision during lunchtime. This relates to the matter of behaviour and becomes unnecessary. He had integration school assistant time to strengthen classroom support, in fact, five hours of a total area time of 25 hours under the Commonwealth integration program.

Extra hours were allocated as a result of the Minister's distribution of additional time to areas. Additional school assistant time was provided from within the school. Itinerant teacher support from the local Special Education Unit was forthcoming. A visiting teacher of children with hearing impairments supervises the child's progress with language development. Indirect services such as guidance officer involvement and services of the Special Education Resource Unit are not mentioned but are an integral part of successful integration.

With that background it can be said that this child came from a special school and was accepted into a local primary school. Significant resources were applied initially to overcome the problems that threatened to make the placement less than successful. The child was gradually integrated into the school. Resources were assessed along the way and the child's actual needs addressed.

At present this level of support from school assistant time is 15 hours. The child's behaviour is now considered to be appropriate and no additional support is needed. The positive learning outcomes are a source of great pride and delight to all concerned with this child. These relate to the following. Excellent language skills are now evident due to the specific language help that was added to general classroom attention. The child's written language is excellent. This student has displayed an interest in computers, and this interest has been taken up and is being developed. He is working on Amstrad programs. In fact, this case study could be cited, if presented factually, as a highly successful model of integration of a Down's syndrome young person in primary schools.

Information regarding the other case studies to which the honourable member referred is being sought. No children are being written off by any of our schools or support services. Integration is a process, not a place, and the officers of the Education Department are committed to the process.

Additional resources have been directed to integration in primary schools. At a cost of more than $600 000, an additional 20 full-time equivalent teacher salaries have been allocated for 1988. The equivalent of 31 additional school assistant salaries has been allocated over 1987 and 1988. During 1987, $150 000 was made available for special equipment which may be required for successful integration. These and other additional resources have been allocated to areas for distribution to schools according to need. The

budget yellow book tells a similar story of increased funding being put into special education. I seek leave to incorporate in *Hansard* a table that will demonstrate that point. I assure you, Mr Acting President, that it is of a purely statistical nature.

Leave granted.

SPECIAL EDUCATION

	1983-84 Actual		1984-85 Actual		1985-86 Actual		1986-87 Actual		1987-88 Proposed	
	$'000	AFTE	$'000	AFTE	$'000	AFTE	$'000	AFTE	$'000	AFTE
Special Education Instruction in Primary Schools	5 030	195.1	5 563	198.7	5 368	196.2	5 300	191.0	5 439	191.0
Special Education Services to Secondary Schools	848	30.1	926	30.4	1 247	40.4	1 577	52.7	1 625	52.7
Speech and Hearing Centres	2 228	83.3	2 469	84.2	2 189	66.1	2 381	69.2	2 454	69.2
Special Schools for the Intellectually Disabled	6 338	234.2	7 021	237.0	7 224	227.7	8 063	257.3	8 313	278.7
Other Special Schools	2 163	75.8	2 382	76.6	3 939	121.4	4 372	130.8	4 507	130.8
Provision of Special Resources	1 296	39.4	1 328	40.3	1 788	49.2	1 934	50.4	1 996	50.4
Program Support Services	1 258	12.2	1 371	10.9	2 068	8.0	2 672	3.7	2 803	3.7
Total Program Expenditure	19 161	670.1	21 060	678.1	23 823	709.0	26 299	755.1	27 137	776.5

Excludes Guidance and related services.
Source of information: 'Yellow Book'.

The Hon. BARBARA WIESE: This table shows quite clearly the Government's continuing commitment to special education. The total program expenditure, excluding guidance and related services, has increased steadily over the past five budgets. In 1983-84, total program expenditure was $19 161 000. This increased the following year to $21 060 000 and in the 1985-86 budget to $23 823 000. In the 1986-87 budget, the expenditure was $26 299 000 and the proposed expenditure for the current financial year is $27 137 000.

This steady increase is paralleled by an increase in the number of average full-time equivalent salaries: in 1983-84 there were 670.1 average full-time equivalents: 678.1 in 1984-85; in 1985-86, there were 709.0; 755.1 AFTEs in 1986-87; and this year the proposed number is 776.5 AFTEs. Thus it can be seen that extra resources have been put into this area, contrary to allegations made in various comments by the Hon. Mr Lucas.

As an indication of the importance with which the Education Department regards special education, I draw the attention of the Council to the Special Education Ministerial Advisory Committee that the Minister of Education set up last month. The consultative committee will have two main functions: first, to advise the Minister of Education on ways to improve educational services for children with disabilities; and, secondly, to advise both State and Commonwealth Ministers of Education on the distribution of grants for special education. This 16 member advisory body will provide a community voice on issues dealing with the education of children with disabilities. It includes parents, educators from Government and non-government agencies, and representatives from service providers and community interest groups.

So, the motion is wrong both in fact and in spirit. Copies of the working party's report were released to key people. The recommendations of that report have been used to form the Education Department's actions in the area of special education. The Minister of Education has acted to ensure that the department's integration policy is being implemented in schools, and the Government has provided increased resources with which to do so.

Therefore, I totally reject the implications of the motion and I seriously ask the Hon. Mr Elliott, who unfortunately has now left the Chamber and who is not listening to my learned contribution, to reconsider his position on this issue, because I believe that the points I have made indicate clearly that the Government has made significant steps forward in providing facilities and support for children with disabilities in our education system. I certainly hope that the Council will defeat this motion. I oppose it.

The Hon. R.I. LUCAS: In closing the debate I make no personal criticism of the Minister of Tourism because, obviously, the Minister was reading a speech that was prepared by officers of the Minister of Education. So, my comments should not be seen as a personal criticism of the Minister. However, I will respond to the matters raised in the speech which was written for the Minister and which she has just presented to the Council. I can only say that I believe that that speech is a further indication of how out of touch the present Minister of Education, and indeed the Bannon Government, is to community feeling on many important issues of concern at present, such as the education of children, particularly young children, with disabilities.

The Minister's speech indicated, first, that the report had been provided to key people. Indeed, copies of the report were provided to the 19 or 20 members of the working party who laboured for some two years to finalise that report. But, some members of the working party who eventually received copies of the report said that it had taken them months to obtain their copy.

They had finalised these deliberations early in 1986 and the report was provided in November of that year. Some members of that committee took some months to receive copies of the working party report on the integration of children with disability in schools. It is not the Minister's draft circulating to key people; the inference that there had been some form of public distribution of this important document is not correct. It is factually incorrect and the report has been circulated to members of the working party as well as obviously some departmental people who have been working on the report. Certainly members of Parent Advocacy—an important lobby group in the community in the northern suburbs comprising parents of childen with disabilities—were not able to obtain access.

Indeed, only some four or five weeks ago I attended a seminar in the northern suburbs conducted by Parent Advocacy where the official representative of the Education Department was asked whether copies of that report were available. The Minister's spokesperson, the official departmental representative—the Superintendent of Schools in the Education Department—said that it was not available publicly and would not be made available officially to a body with an important role such as Parent Advocacy.

The second matter to which I respond in the Minister's speech was that the Opposition, in particular myself, had been scaring parents in the community with the impassioned plea that the Opposition has taken on this issue not only in the Parliament but also in the wider community through the media. I respond to that by first rejecting it as nonsense and, secondly, by indicating that the Minister is

criticising parents of children with disabilities by making such a nonsensical comment in a ministerial response to the motion. The issue was raised with me by parents of children with disabilities who have concerns about the way the education system and the Government are treating their children. They are concerned and have been running into brick walls with the Minister, the Education Department and anyone else in positions of authority in relation to the education of children with disabilities.

It was only after many months, in fact years, that those parents, through a new group formed in the northern suburbs—Parent Advocacy—brought these issues to the Opposition to have action taken and debate initiated on one of the most important areas in education today. They raised the issues and provided the examples to me as shadow Minister. They asked, in fact implored, the Liberal Party to take up the banner of fighting for parents of children with disabilities because the Government and the Minister were not prepared to do so. Again, I reject that the Opposition has been scaring parents or raising unnecessary concerns and alarm with parents. We are responding, as members of Parliament, to legitimate concerns made by parents concerned with a Government and a Minister out of touch with community needs in this important area.

Thirdly, no-one—certainly not I in any public comment that I have made—has argued that the Government or the Minister should or could implement overnight, with a stroke of the fiscal pen, all the recommendations in the working party report. Indeed, it is the old straw man argument of constructing a supposed position of the Opposition, strike it down and think you have struck down the opposition on the matter. It will not work on this matter. The parents of children with disabilities will not be fooled by that line of argument from the Minister and the Government. It is not what the Liberal Party wants but what parents want, namely, public release of that report, not just to members of the working party but also to the public. Secondly, they want public discussion of the report and thirdly they want consultation on the implementation for short, medium and long-term programs for the integration of children with disabilities into our classrooms. I suggest to members that that is not too much to ask. They do want commitment of more resources from Government to an important area and I support that call.

When anyone, particularly a political Opposition, argues that more resources should be diverted into a particular area, we have the response, 'Where will the money come from?' In most cases that is a legitimate response. I indicate, as I have done publicly and in this Chamber, a handful of areas where savings can be made in the education budget, let alone in looking at wastage of money on yacht races, three-day horse events and assorted other things outside education. I instance the $5 million to $7 million blow-out in the reorganisation of the Education Department; the $3 million a year that the Auditor-General (the independent accounting umpire) has identified as potential savings in the school bus contracts with greater use of private contractors and rationalisation; $2 million a year that the Auditor General has indicated could be saved through the greater use of industrial and petty contractors in school cleaning; and the needed or required upgrading of computer systems within the Education Department in relation to the overpayments of teachers and staff every year currently running at some $800 000 per annum. At the end of the last financial year some $500 000 was left overpaid and uncollected from within the Education Department to teachers and staff. We also have $300 000 per annum wasted in paying for vacant teacher rental housing.

We have warped priorities evident in decisions such as the 1986 budget decision to abolish the position of chief speech pathologist, chief social worker and chief guidance officer but to find the money to employ a $35 000 public relations officer for the Education Department to try to highlight the supposedly good job the Minister and the Government have been doing in education. They are only a handful of examples that the Opposition has identified over a period of two years and are concrete examples of significant sums of money that the Government and the Minister continue to waste in the administration of education.

It is in those and other areas that we have identified that the Minister could bite the bullet and divert funding from those areas to channel into important areas such as the policy for integration of children with disabilities. I conclude by saying that nothing that the Minister has said will convince parents of children with disabilities that enough is being done by the Minister and the Government in this area. Nothing that the Minister has said will convince them that he, the Government and its members care about a significant problem for a disadvantaged group in our community.

They do not want further committees established and that was indicated by the Minister's reply. They have had enough of committees. The last committee met over a period of two years, and its report has been available for those two years. They do not want another committee to look into this area.

I am pleased that the Legislative Council, at least on the indications thus far, will support this motion because, by its very terms, namely, the failure of the Minister of Education to ensure the proper implementation of the integration policy in schools, it will serve as a salutary reminder to the present Minister of Education, in his dying days, and to the new Minister of Education who will take over responsibility in the next one or two months, that this is an important area about which the majority of members in this Council feel strongly. The new Minister of Education should look seriously at this area and channel funding out of other areas into this most important area.

Motion carried.

SOUTH AUSTRALIAN COLLEGE OF ADVANCED EDUCATION

Adjourned debate on motion of Hon. I. Gilfillan:

That the by-laws under the South Australian College of Advanced Education Act 1982, concerning parking and traffic control, made on 11 February 1988 and laid on the table of this Council on 16 February 1988, be disallowed.

(Continued from 6 April. Page 3775.)

The Hon. G.L. BRUCE: I oppose this motion and the motion following. I do not say that this is the main motion, but my remarks relating to this matter also relate to the following motion. Having been a member of the Subordinate Legislation Committee which considered the regulations, I heard evidence presented to the committee on Wednesday 23 March 1988 from Veronica St John-Sweeting, President of the Student Union and Ian Clark, Secretary of the staff association, both of whom were from the South Australian College of Advanced Education at Salisbury. That evidence was tabled in this Council on the same day and is available for the perusal of all members.

The evidence presented by those witnesses was that the proposed new by-laws were unfair and unacceptable to staff and students alike. Following discussion with the commit-

tee, it eventuated that the main bone of contention about the new regulations related to the proposal to charge an annual parking fee of $50 for staff, $25 for students, and $10 for motor bikes, with the possibility of CPI increases in future years, at the College of Advanced Education campuses at Underdale, Salisbury, the city, Magill, and Sturt. While it was put to the committee that those would be the increases, the committee did not have the exact monetary amounts to consider. All it had was the regulations giving the council the power to do that.

It was put to the committee that proper consultation had not taken place with the staff and students prior to the fee structure being introduced and that, as fees had not been charged previously, they should not be charged now. It was further put that the imposition of these fees would impose a hardship on some students and there still would be no guarantee of parking being available or that fees collected would be spent on car parking facilities. The witnesses said that future increases could be implemented without there being much redress. In fact, a letter circulated at the campus pretty well sums up the evidence we received from the student and staff representatives. That letter headed 'Why staff and students oppose car parking fees', and which was tabled in the Council, reads:

The college students and staff have been vocal in its opposition to user pays principles as proposed by the Hawke Government. It is of some concern to us, therefore, that the college is trying to implement its own 'user pays' policies in the form of car parking fees. Students and staff oppose these measures. Some of the major reasons for their opposition to this policy are outlined below:

1. Staff and students assert that it is their right to be able to park their vehicles on campus. We do not know of any other employer who charges parking fees for unguaranteed parking in the suburbs.
2. The proposals are very disruptive to the college community, especially in such uncertain times when the college should be seeking to promote unity between staff, students, senior management and the council. College unity is important, too for our corporate, public image, in preparation for tougher times ahead.
3. At the moment proposals do not guarantee a parking space. Most people will be paying up to $50—simply for the chance to seek a space.
4. Regarding the fees and other financial burden for students, the college prides itself on its commitment to equity and access, yet feels justified in charging for services which have been provided at no cost in the past. In addition to this, senior management are able to park at work at no personal expense, yet students and staff will be required to pay. Where's the equity in that?

When we received evidence from the council, I put it to the witnesses that this letter had been tabled as evidence to us. They gave evidence that the senior staff at the colleges now paid $50 per annum for their parking, so that was a direct contradiction of the fact. The letter continues:

5. The proposals are vague and unformed. Obviously, there has been little planning involved in preparation for the introduction of fees. For example, are there policies for short-term visitors, students who may only have to visit campus once a week (e.g. city campus students who, as part of the requirements of their course, have to travel to Magill to attend a one hour tutorial once a week)? No doubt there are countless other examples of this kind.
6. Will the proposal even raise enough money to offset the cost of implementation and administration? We doubt it.

This is only a brief summary of some of the reasons why car parking fees are being rejected by staff and students throughout the college community. Students and staff representatives attending council will be presenting our case to college council.

The staff and students recommended that the resolution adopted by the council at its meeting on 16 December 1986 be rescinded. That letter virtually sums up the evidence presented to the committee.

In rebuttal to that evidence, the Subordinate Legislation Committee received evidence from Ian Allen, Director of Resources; Neville Thiele, Assistant Secretary (Administration); and John Tapping, Acting Assistant Secretary (Administration), all of the South Australian College of Advanced Education. At page 16 the evidence states:

THE CHAIRMAN: Please present your evidence?—(MR ALLEN) I was very concerned when I read the transcript that some of the evidence put before the committee was inaccurate and relied on some earlier documentation that was considered by the college council. If it would help the committee, I will proceed through the transcript and make some comments. One of the key reasons why college council considered the introduction of car parking fees arose from a decision by the Commonwealth and State Governments not to fund the maintenance and development of further car parking for the South Australian college. Since 1985, the college's finance committee considered the various options for the introduction of a car parking fee to meet demand on repairs and maintenance and on the extension of car parking facilities. There was much to-ing and fro-ing between the finance committee and the college council. That culminated in December 1986 when the council took a decision to introduce car parking fees with effect from 1 January 1988.

At the bottom of page 1 and at the top of page 2 of the transcript reference was made to plenty of car parks being available for the majority of the time at Salisbury and at Sturt. The only college at which there is plenty of parking is Salisbury. All other campuses are under increased pressure for parking. Students and staff park in the streets surrounding the Magill campus and at Sturt. The position at Underdale is becoming critical with the transfer of nurse education to that site of the college. I find it rather fatuous that those who have given evidence before this committee could make such a statement. The documentation available to all staff in the college points to the very need that this college has had to introduce car parking fees so that it could fund the development of new car parking facilities. That has been the reason for the introduction of these fees.

The evidence is quite lengthy, but I think that members are aware of both sides of the argument. It concerned me that adequate consultation may not have occurred and that the matter might have been rushed through. In reply to a question by me on this matter the following is recorded on pages 27 and 28 of the evidence:

THE CHAIRMAN: You are saying that they never sat down and discussed it with you?—They refused to discuss it with us. As I said earlier, they were dramatically opposed to the principle of a car parking fee.

So the consultative process could not take place because of their refusal to meet with you?—Again it is really a question of what you refer to as consultation. We believe that the way we have structured our committees also provides a forum for consultation. The former finance committee was replaced by a resources committee. It was a forum where the staff, students and college administration could debate issues prior to putting a recommendation and, in some cases, approving issues before they passed to council for information or ratification.

On the balance of evidence given to the committee and tabled in this Parliament, I believe that the regulations are in accordance with the Act and within the rights of the South Australian College of Advanced Education to administer as they see fit. I am sorry that the consensus of opinion has not been approval of the regulations. In fact, from the evidence it is clear that the matter is still far from settled as there was a moratorium on the fees. What has happened to that I do not know. As I understand, the possibility of guaranteed parking could become an issue and is yet to be discussed. I believe that even if the regulations are disallowed the right of the college to charge parking fees still exists. Under the old regulations the right of the college to introduce a parking fee is available. Of course, the new regulations tidied up and made much clearer the fact that the college has that right.

My support for the regulations has nothing to do with the fee structure but is based upon the right of the college to charge a fee. On balance, and in light of the evidence, I believe that the regulations should be approved and the

Hon. Mr Gilfillan's motion for disallowance should be defeated.

The Hon. R.I. LUCAS: I rise on behalf of the Liberal Party to support the disallowance of these by-laws. Having considered the evidence that was presented to the Subordinate Legislation Committee, the Liberal Party's view on balance is that it supports the views put in evidence by staff and students against the new fees. The reasons for staff and student opposition were fully outlined by the Hon. Mr Gilfillan on a previous occasion, and the Hon. Mr Bruce in his contribution, whilst taking a different line, outlined the reasons for student and staff opposition. I therefore do not intend to go over the grounds raised by staff and students.

I want to comment that at the time of the introduction by the Federal Labor Government of the $250 (as it was then) administration charge or tertiary fee, the South Australian College of Advanced Education Council and its senior officers were at the forefront of opposition to fees for students at higher education institutions. They were public and vocal in their opposition to the fees on the grounds of equity and access to higher education. Yet now we see that that body is seeking to add to an already large impost for students of the South Australian college. Members ought to remember that what we know as free tertiary education is not really free at all. Students are confronted with administration charges of somewhere between $250 and $300, as it has been cpi indexed. There are substantial fees for students to join student or union associations, and in some higher education institutions that is about $200 a student a year. To that one can add the cost of books and materials for some courses.

I have been to the design faculty of the Underdale campus and I was told by some of the students last year that they had to sell their cars to meet payments for the costs of materials that they were required to have. Some of the materials run into four figure sums, that is, over $1 000 for some students for the high cost items that they are required to have to undertake the courses at the Underdale campus. If one looks at the total cost, students are probably paying between $700 and $800 up to possibly $2 000 in fees and charges for tertiary education at the South Australian college. To that we have added at this stage an admittedly small additional impost of possibly $25 a year.

The point that I make—and indeed the point that those who oppose the administration charge made—is that once the wall has been breached and the principle has been established, in the case of an administration charge of $250 and a parking fee for students of $25, it is much easier for Governments, on the one hand, or administrations, on the other hand, to offer a periodical increased charge to be incurred by students. That power would remain even under the terms of the current proposal from the college. To be fair to the college, the current proposal is for cpi indexation, but the power would remain with the South Australian college to change that by decision of the college council.

The matter of parking fees, as indicated by other members in this debate, is a matter of hot controversy on the five campuses of the South Australian college. There is still no agreement between administration on one hand and staff and students on the other. The college council will meet again on 18 April to receive a report from Mr Ian Allen, an officer of the South Australian college, on how to work in a more equitable and practical way to implement the proposal for car parking fees.

At this stage we are not in a position—and we have to vote on this matter this afternoon—to say whether or not there will be agreement by the South Australian college council. I am able at this stage to put on the record some further information in relation to a new proposal by the college administration for the consideration of the college council. In the documentation being circulated to council members at the moment, which is signed by Mr Ian Allen, Director of resources, Mr Allen was asked at the last meeting of the council—which rescinded the decision for the current level of fees and asked for a new proposal—to go away and consult with all the interested groups to see whether a compromise or an agreed decision could be arrived at for presentation to the April meeting of the council. On page 2 of that document Mr Allen states:

> At a meeting of all the interested bodies—

and I will not list them—

> chaired by the Director, Resources, it was made abundantly clear that, whatever the desire of the college administration or council, there was no point in discussing a set of alternative fees or arrangements as the parties were implacably opposed to the introduction of a fee structure. Consequently, and despite the best endeavours to have the parties focus on a set of alternatives, the meeting foundered due to this impasse.

Mr Allen is to present a new proposal to take account of the equity problems that clearly exist in the first proposal. On page 4 of this document, Mr Allen comes forward with the latest proposition from the administration to the council. The first proposal was $50 for staff and $25 for students at all campuses. The new proposal provides:

1. Guaranteed staff parking, $50 per annum.
2. Unguaranteed staff parking, $25 per annum.
3. Unguaranteed student parking, $15 per annum.
4. Motorcycles $5 per annum.
5. A weekly permit for staff, unguaranteed parking only, $1.50 per week.
6. Weekly permit for students, unguaranteed parking only, $1 a week.
7. Casual daily permit staff and students, unguaranteed parking, 40c per day.

Part-time staff and students requiring daily parking at suburban campuses will either pay two-thirds of the annual fee, rounded to the nearest dollar, or the casual parking rates proposed, with no other dispensations proposed in view of the high administrative overhead costs associated with the introduction and collection arising from this changing formula.

There is one other matter that I should refer to in this new program, namely, that the Adelaide campus of the South Australian college, as distinct from the four suburban campuses, would be treated differently, as follows:

> For 1989, a standard fee of $100 per annum is proposed for all guaranteed city campus parking.

That was a very quick summary of some 30 pages of documentation from Mr Allen to the next meeting of the South Australian College Council. To be fair to the administration, I think that that will meet some of the equity criticisms that have been made by staff and students. However, in the consultations that I have had with staff and students there is no doubt that it will not meet all the criticisms and there will continue to be very strong opposition from staff and students even to this proposed revised formula.

It is also important to note that there is no guarantee that this new proposal will be passed by the South Australian college council. Following discussions with members of that council, I think it is fair to comment that the council has been fairly stroppy about this proposition and it rescinded one of the motions put forward at a recent meeting. There is some chance, I guess, that the college council might even reject the new proposition being put by Mr Allen. My view is that the essential principle should be that the South Australian college ought to sort this out. It is very important that there be some degree of cohesion between administration staff and students at the South Australian college at this time, because at the moment its very existence is under

some threat with the restructuring of higher education being considered by the Bannon and Hawke Governments. None of the proposals in the State Government's green paper envisage the South Australian college continuing in its present form. All the proposals being discussed involve a cutting up—if one can use that word—of the South Australian college, to varying degrees. So, it is now not the time to be driving a wedge between staff and students and the college administration.

I understand the difficulties confronting the South Australian college administration in relation to this question of parking. As has been indicated in evidence, the college is not provided with designated grants from either the State or Federal Government for the provision of car parking. If there is no resolution of the controversy that is prevalent at the moment problems will continue at some of the campuses of the South Australian college, and the students and staff will have to realise that there can be no major upgrading of parking facilities as envisaged by the South Australian college administration and council if the proposition for parking fees does not go ahead. But students and staff are old enough and wise enough to be able to make that judgment themselves, and if students and staff take the view that they do not wish the major upgrading of parking facilities proposed by the administration to go ahead and if they are prepared to wear the problems and difficulties that exist on some campuses at the moment, that will be a conscious and rational decision made by them. It is a decision that in my view the administration ought to consider.

The new proposal that Mr Allen is putting to the South Australian college council in the recommendations will necessitate, if approved, changes to the by-laws that are the subject of this debate. So, as to the new proposition going through, Mr Allen states at page 6 of his submission:

> If council approves these arrangements, revised by-laws will need to be developed, particularly by-laws 11 (4) and 11 (6).

There is no reference there to by-law 11 (5), which is the major by-law, but members here should be aware that the new proposition, if accepted, will involve a change to the by-laws that we are being asked to approve at the moment. Of course, if the South Australian college council wants to reject this new proposition and look at a further proposition further changes to by-laws may well be needed.

The two final points that I want to put to members are as follows. First, the Hon. Mr Bruce referred briefly to the fact that, irrespective of the outcome of this debate, it would appear that the South Australian college has in its parent Act the power to charge parking fees, anyway. Indeed, page 22 of the evidence indicates that in response to a question from the Hon. Mr Burdett, who will speak later in this debate, Mr Allen stated:

> That is correct. I also draw the committee's attention to section 13 (1) *(c)* of the South Australian College of Advanced Education Act 1982, which says that the council may fix fees or charges for tuition or other services provided by the college.

It would appear that the Hon. Mr Burdett and Mr Allen agreed that that provision gives the council, if it wants to use it, power in this area.

The final matter that I want to put to members here, and to members of the South Australian college council community, who might read the contributions on this matter, is that they ought to be aware that, as with regulations, even if these by-laws are disallowed there is nothing in law to prevent the South Australian college reintroducing exactly the same by-laws, if it wants to. They have to go through a procedure, but they would then come into operation once that procedure had been followed—and that procedure does not require Parliament to be in session and, of course, any further motion for disallowance, such as that moved by the Hon. Mr Gilfillan, could not be moved until August. What is more likely is that the council could reintroduce by-laws in an amended fashion, as is envisaged by Mr Allen in the latest submission to the college council. So, for those reasons I indicate that members of the Liberal Party take the view that we would support the disallowance motion moved by the Hon. Mr Gilfillan and the substance of the propositions that have been put to us by the staff and students of the South Australian College of Advanced Education.

The Hon. J.C. BURDETT: I do not support this motion. I indicate that, as the Hon. Gordon Bruce said, my comments will apply to both of the motions on this matter on the Notice Paper, that is, Orders of the Day: Private Business Nos. 6 and 7. Those matters both refer to the by-laws under the South Australian College of Advanced Education Act. The by-laws simply replace the existing parking by-laws of the college.

Section 21 of the Act enables by-laws to be made *inter alia* to prohibit or regulate parking. The previous by-law did not enable fees to be charged. By-law 11.5 of the new by-laws provides:

> The council may from time to time declare or vary such conditions as it sees fit to apply to permits issued pursuant to clause 11.2.

One of the conditions which the council of the college has declared in respect of permits is a fee of $50 for staff, $25 for students and $10 in respect of a motor cycle. All fees are per annum.

In the evidence given before the Subordinate Legislation Committee, the administration said that, in effect, the State and Federal Governments had made clear that there would be no grants for the maintenance or extension of parking areas. In most campuses, except the Salisbury campus, extensions are required. In most other comparable tertiary institutions, in both this State and across the nation, fees are charged. The fees collected under the resolution which was passed but which has since been rescinded by the council are tied by the administration to the cost of extension and maintenance. This is not a revenue raising measure; the money does not go into general revenue but is tied for that purpose.

Mr Allen gave evidence as to the proposal for extension. It is quite clear that, while the fees may be fairly adequate for that purpose in the first instance, that is all. I asked Mr Allen whether it might be possible to reduce the fees later, and he said that that might be the case and he hoped that it would. Because of the objections to the fee by staff and students, the council has rescinded the motion to introduce a car parking fee and currently no fee is charged. Consultations are continuing, and it is likely that a new motion will be moved at the April meeting of the council.

The Hon. Mr Lucas has indicated, according to documents in his possession, what that fee is likely to be, although of course there is no certainty about that. Various options are being considered, including a mix of a fee for a guaranteed park at a higher rate and a general parking fee at a lower rate. This matter has been discussed by the Hon. Mr Lucas. I believe it is clear that the council will reimpose some sort of fee unless these by-laws are disallowed. The Hon. Mr Gilfillan, in moving this motion, used the evidence of students and staff as well as other material. However, I believe he ignored or discounted the evidence of the administration.

Conflicting evidence was given to the Subordinate Legislation Committee as to the degree of consultation that took place and the manner of introduction of the fee. I do not feel it is useful for me to try to make a judgment on which side was right in this matter. I feel sorry for the

students and the staff who are outraged that for the first time a fee will be charged. It is always tough when suddenly you find that you will be charged for something you have been able to do for nothing for a long time. People are up in arms. I also acknowledge that part-time students are hardest hit because they use the park for only a short time. However, I make the point very strongly that Parliament is dealing with a by-law and not with internal conflicts about the fee. In my view, it is reasonable for the council of the college to have the power to impose conditions, including the charging of a fee, and that is as far as Parliament should go. I do not consider that it has been established that the council used its power improperly or oppressively. It seems to me that the council of the college should have that power and that the way in which it carries it out or puts it into effect is a matter with which the council must live.

The college council must work out this matter with involvement from its administration, students and staff. It is for them to work out. The council has, very properly, chosen to bring all matters relating to parking together under a by-law and to charge fees as a condition in the granting of a permit. That would seem to be the sensible way to go—to put all parking matters together under a by-law.

The Hon. G.L. Bruce: They will all be knocked out by this motion.

The Hon. J.C. BURDETT: Yes, that is correct; this by-law will rub them all out, and we will return to the previous by-law, which may be inadequate but which will still apply. The Hon. Mr Lucas has referred to the matter which I now raise, that is, that quite separately from the by-law making power, as quite another matter independent of that by-law, section 13 (1) *(c)* of the Act provides:

> The council may fix fees or charges for tuition or other services provided by the college.

It certainly seems to me (and I have thought about this matter pretty carefully) that parking facilities are clearly services provided by the college and could be charged for under section 13, even if the by-law was disallowed. I cannot see any other way of interpreting section 13 (1) *(c)*. I believe that that makes a nonsense of the motion because, if the by-law is disallowed, the council can still take the same action under that section of the Act. It was more convenient for the council, no doubt, to impose the fee under the by-law so that all aspects of parking were brought together. However, if the by-law is disallowed, the college can still charge for parking. In my view, that makes a nonsense of the motion, and I do not intend to vote on a motion that is a nonsense.

The Hon. G.L. Bruce: Hear, hear!

The Hon. I. GILFILLAN: I cannot say that I received the previous speech with the same enthusiasm as did the Hon. Mr Bruce, but I respect the integrity of my colleague the Hon. John Burdett and the cogency of his arguments. It is unfortunate that certain factors have made this motion a little less than perfect. One factor is that, although other legislative avenues may be available to the council to impose fees, the only way that we as members of the Legislative Council can respond to this measure is in the way that I have attempted in moving for disallowance.

The fact that if the regulation is tossed out we may be throwing out some babies with the bath-water is the fault of the regulation system. There is no opportunity for us, given the procedures by which we debate regulations, to moderate or amend them. I accept that both those points raised by the Hon. John Burdett are valid. However, I point out we do not have the opportunity to act in any other way in this matter, and I still believe that, on balance, my motion is the way to go. I do not believe that it can be guaranteed that the fees, when charged and collected, will be tied to facilities. That is very easy to say in the early stages of any proposed scheme.

What is the sort of history of promises that funds raised for certain purposes a few years down the track are alienated in large amounts to other areas? That applies to Governments, and there is no reason not to expect the same thing to occur in colleges of advanced education.

As to the proposal that fees will be reduced, contrary to the Hon. John Burdett's claim that I did not consider the evidence of the administration, I read it with great interest. I noticed the question by the Hon. John Burdett about whether there would be a possibility eventually of reducing the fees. Mr Allen rather demurred in his answer. I would not mind putting big money on the fact that once the fees were introduced, we would never see them reduced, even if there was no requirement for the funds. They would continue at the same level and inevitably be increased.

The unfortunate flavour of the evidence as read (certainly I was not present at the Subordinate Legislation Committee) was that the administration took a rather overbearing attitude to this and stirred up unnecessary antagonism—possibly some emotional antagonism—from staff and students, which has not helped their cause.

Finally, I comment specifically on the issue of the levying of parking charges on the staff and students. As a comparison, what an outrage there would be if teachers were charged to park when they drove their cars to schools. There is absolutely no indication that that would be tolerated, and neither should it be. The other point is that these colleges are not easily accessible to public transport; they are remote and, as I argued in my original comments on this motion, demanding logistical requirements exist for many students to have a car, at quite considerable cost to themselves. Any increase in that cost is painful and for some of them it is very difficult to meet.

Also, a principle is involved. We believe that the staff and students are quite justified in resenting this imposition, and I therefore urge the Council to support the motion to disallow these two sets of regulations. Orders of the Day, Private Business, Nos 6 and 7 deal with the same matter, although they are separate motions. I will not therefore debate the second one. I urge members to support the motion.

The Council divided on the motion:

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

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

Majority of 2 for the Ayes.

Motion thus carried.

PERMITS AND RESERVED AREAS BY-LAWS

Adjourned debate on motion of Hon. I. Gilfillan:

That the by-laws under the South Australian College of Advanced Education Act 1982, concerning permits and reserved areas, made on 25 February 1988 and laid on the table of this Council on 1 March 1988, be disallowed.

(Continued from 6 April. Page 3775.)

The Hon. G.L. BRUCE: As I mentioned in my first speech on Order of the Day, Private Business No. 6, the way that that went would indicate our action on this matter.

It is disappointing that some of the valid regulations and by-laws that have been agreed by the students, staff and council will go out. I have no doubt whatever that eventually the council will decide on a fee of some sort. Even if a new regulation is not introduced, the council can decide on a fee that will not come before the Parliament. It will have to sort it out. This Council should not be involved in the internal bickering as to what a fee should be. The power for the council to set that fee and bring in regulations in relation to traffic and fees is established. The council has the right to do that and is acting within the Act and the by-laws. It will eventually go ahead, and the way in which they do it is their own concern. We have interfered unnecessarily in that procedure.

As I indicated in the earlier debate, in no way do I support or indicate approval for the fee. However, I supported the by-law and the right of the council to be able to charge a parking fee if it so desired and would arrange it. My view is still the same. We are not prepared to divide on this, as the first vote set the pattern.

The Hon. R.I. LUCAS: The Liberal Party supports the disallowance.

The Hon. I. GILFILLAN: There is no need to repeat what has already been said, as these motions are connected. However, I point out that the amount of the fee is not involved and did not come before Parliament or the Subordinate Legislation Committee in these regulations. I am not sure whether I understood what the Hon. Gordon Bruce said, except that he and perhaps the Government were not expressing support for the imposition of parking fees in their stand on this motion.

The Hon. G.L. Bruce interjecting:

The Hon. I. GILFILLAN: It would be unfair for the Government, because of the way it has voted on this motion, to gain a reputation of supporting the imposition of fees. I do not want that to be an interpretation of the way it is voting. I understand from the remarks made by the Hon. Gordon Bruce that that is not the case. I urge the Council also to support this motion.

Motion carried.

TOWN ACRE 86 OFFICE DEVELOPMENT

Adjourned debate on motion of Hon. Diana Laidlaw:

That the report of the Parliamentary Standing Committee on Public Works on the Town Acre 86 Office Development (Tenancy Fitout) be noted.

(Continued from 6 April. Page 3777.)

The Hon. J.R. CORNWALL (Minister of Health): A number of things have to be put on the record lest it be said that, by default, I did not answer these ridiculous, destructive and cynical claims which have been made by the Opposition and which have been led by that well known poseur, Ms Laidlaw. She led the Opposition charge to establish a select committee on the Christies Beach Women's Shelter. Of course, she will not participate.

The Hon. R.I. Lucas: Neither are you.

The Hon. J.R. CORNWALL: I happen to be the Minister, and if you can't see the difference—

Members interjecting:

The Hon. J.R. CORNWALL: That is a matter of Government administration.

The Hon. Diana Laidlaw interjecting:

The PRESIDENT: Order!

The Hon. J.R. CORNWALL: How silly.

Members interjecting:

The PRESIDENT: Order!

The Hon. J.R. CORNWALL: How contemptible. With regard to these cynical, destructive, negative and outrageous allegations that have been made by Ms Laidlaw, let me place the facts on the record. It has been recognised for quite some time that the accommodation occupied by the South Australian Health Commission Central Office Group creates difficulties in that optimum operational and functional effectiveness cannot be achieved. That is just a physical and business fact. The various units that comprise the commission's central office organisations have been and, to date, continue to be accommodated in seven different separate buildings in the city and near city areas. This situation has evolved over time as a consequence of accommodation availability. It has grown up, in a fashion, like Topsy. The resultant fragmentation has given rise to difficulties in respect of interaction, liaison and the coordination within and between various central office groups. Further, it has given rise to obvious communication problems. It has placed constraints on achieving optimum space and resource utilisation. Further, it has inevitably led, because of the fragmentation, to the duplication of many services such as administrative, accounting and correspondence functions.

Consideration of the Health Commission's overall accommodation situation began quite some years ago. It showed that some of the buildings that were and continue to be occupied have serious deficiencies which would be very difficult and expensive to rectify. They included asbestos insulation throughout one of the buildings, lack of adequate access for disabled persons in several buildings, inadequate air-conditioning and lift services in some buildings (and if anybody doubts that, they should try to survive in my office on a hot day, or they should attempt to get there in the first instance, because I believe we have the slowest lift in town), poor lighting, poor office layouts and flexibility severely constrained by poor building and floor designs.

It also became apparent that it would not be possible to resolve completely a number of the commission's organisation and operation problems while people remained dispersed in their current accommodations. It was therefore determined (and this was looked at from a corporate business point of view) that the most effective means of overcoming the commission's problems of accommodation, organisation and operating efficiency would be to bring together all elements of the commission's central office organisation in the one location. As I said, that decision was reached not on the basis of whether it would be nice to be in a new building; rather—

The Hon. M.J. Elliott interjecting:

The Hon. J.R. CORNWALL: The parsimonious and sanctimonious Mr Elliott, who has never been in Government, and is never likely to be unless he defects, sits and scoffs when I talk about a business-like approach and corporate efficiency. Above all else that is what we have brought to the administration of health services in this State. I am very proud of them.

The Hon. M.J. Elliott: What about another site?

The Hon. J.R. CORNWALL: We considered a number of other sites, and in a moment I will tell you about one of the reasons why we chose Town Acre 86 and the benefits that would accrue to the Commissioners for Charitable Funds. In relation to the Department for Community Welfare, the examination of the Health Commission central office accommodation had been proceeding for some time before I became Minister of Community Welfare in 1985. However, we looked at that also, not only in the context of the desirability of the two organisations growing ever closer

together, but also from the point of view of efficiency with regard to accommodation. The central office organisation of the department provides the coordinating and administrative focus for State-wide services, and it acts as an interface between the various people and organisations involved in the provision of such services on a State-wide basis. Further, it acts as the interface, on many occasions, between State and Federal Government agencies. The Department for Community Welfare central office group is accommodated in two different buildings in the city, and operational efficiencies and savings could and will be derived for bringing the groups together in one location.

With regard to collocation, and the actual bringing together of the Health Commission and the DCW, if one looks at it completely objectively, it is obvious that there are a number of similarities in the operations, needs and clients of the Health Commission and the DCW. Many clients require services from both organisations. Many factors within communities can affect both the health and welfare needs of members of the public and actions taken to address the health needs of a community can, and obviously do, impact on the welfare needs of a significant number of members of the community and vice versa. Both organisations require similar extensive demographic and service data in reviewing and planning to meet existing and future community needs. I hope that one of the great leaps forward that we will be able to achieve in administration within the next few months will be to arrive at common boundaries, and that has not been able to be achieved previously.

When one looks at all these factors, it is obvious that collocation of central office groups will further enhance the close coordination and cooperation which already exists and which continues to grow between the health and welfare organisations and personnel. It will certainly help the planning of future service developments. It was also apparent that significant financial and operating benefits would result from the collocation of the Health Commission and the Department for Community Welfare to more appropriate accommodation, which should be easily identifiable and accessible to the South Australian public, so we came to the consideration of accommodation options.

As part of the extensive review of the Health Commission and the Department for Community Welfare central offices accommodation, the costs and benefits of the current accommodation was compared with various accommodation options. It was a very extensive and intensive exercise over quite a number of months. These considerations included existing and planned city and suburban buildings which would have sufficient space and facilities to meet the operating and community needs in respect of the two organisations. The factors considered included ease of access for the community and staff, ease of vehicle access and parking, suitability and flexibility of floor plan layout, ability to accommodate and facilitate modern office technology, suitability for specialised services, lighting and relative costs and benefits of the available accommodation options.

Several options were available. The office space which will become available reasonably soon in the ASER development was one of the options considered. Of the options available, the proposed new Town Acre 86 or Adelaide City Centre Building was clearly the best on all the analyses that were done. It will provide the necessary space to bring both organisations together. It best meets all the functional and operating requirements. It has excellent public access in downtown Rundle Mall, and it has significant cost advantages over the various other sites.

I will not go into detail about the statistics with regard to floor space and costs per square metre, but at this stage I seek permission to incorporate in *Hansard* details of a statistical nature relating to the cost of the project without my reading them.

Leave granted.

Cost of Project

The January 1988 cost estimate for the relocation of the two organisations to the Adelaide Citicentre Building was:

	$
Fitout Cost	3 400 000
Contingency (3%)	104 000
Total Fitout	3 504 000
Professional Fees	327 000
* Decommissioning and Lease Cost	2 555 000
	6 386 000
Less Incentive Rebate	1 700 000
Total Project	4 686 000

Note: The anticipated total on completion in September 1968, is expected to be in the order of $4 874 000, based on a projected building escalation rate of 8 per cent per annum.
The above figures are expected to have an uncertainty limit of no more than 10 per cent.

* This is the estimated maximum decommissioning cost. It is anticipated that the actual cost will be between $1 million and $1.5 million.

The Hon. J.R. CORNWALL: Land comprising town acre 86 is owned by the Commissioners for Charitable Funds and has been for more than a century. Pennant Properties Pty Ltd, the project developer of the building under construction at Town Acre 86, has entered a 99 year leasing agreement with the Commissioners for Charitable Funds. The major beneficiary of the Commissioners for Charitable Funds is the Royal Adelaide Hospital. It is estimated that over the 10 year period part of the rental paid by the State Government to the tune of potentially $10 million—that is $1 million a year in 1988 dollars—would help to support equipment purchases and research programs at the RAH. That may be a fringe benefit, but it is certainly a substantial one. Offsetting the costs resulting from the relocation will be salary savings arising from the rationalisation made possible by the new accommodation, and the fact that it will not be necessary to expend an estimated $1.9 million on upgrading and modifying the existing accommodation. When that is put together with the salary savings, as I have said in this place on numerous occasions, the cost will be neutral over the period of 10 to 15 years.

In summary, the decision to relocate the Health Commission and Department for Community Welfare central office groups into the Adelaide Citicentre Building, was made only after extensive investigations and consideration of the relative benefits of the various accommodation options. These considerations gave particular regard to operational efficiencies, costs and particularly service to the public. The costs of the relocation will be met out of savings that will accrue from increased operational efficiencies, and organisation and staff rationalisation. Over a period of 10 to 15 years, this project will be cost neutral, and the Government will have achieved significant improvements in operational efficiency and services to the public at no cost to the community.

The Hon. M.J. ELLIOTT: I do not intend to speak at length to this motion, which in itself implies no criticism. It simply says that the report of the Parliamentary Standing Committee on Public Works on the Town Acre 86 office development tenancy fitout be noted. What it is really saying is that the council has paid some attention to the report and noted it and I suppose that some people can reach their own conclusions. The Minister says that everything is perfectly justified and that there are good reasons for shifting. I am not saying that there are not good reasons

to shift, but there must be a question whether or not in reality the proposal is cost neutral, and by noting the report we may once again draw our own conclusions.

In fact, I would be surprised to find out if the proposal did turn out to be cost neutral. On the information that I have seen so far, I do not think that the report has canvassed in detail that there were not other options that could have been canvassed. After all, we are moving into a building that is still under construction. Perhaps other construction options could have been considered. I would have thought that a tenancy taken up by a Government department would be very secure and bodies such as the Superannuation Fund could have been easily encouraged to produce a building which is not on such a prime location and which must therefore be expensive because of that location. There are some very good reasons for wanting to have the shop front arrangement which I assume will be on the Rundle Mall building.

The Hon. J.R. Cornwall interjecting:

The Hon. M.J. ELLIOTT: There is certainly a bonus in so far as there may be shop frontage available, but no-one can convince me that having so many public servants who do not have a direct public interface perched in a building over Rundle Mall is the cheapest possible option. It may be a fairly cheap option among those explored, but I question how far the exploration went.

Whether the Minister wants to get the two departments together for all sorts of efficiencies as he claims, or whether it is part of a political agenda, time will judge as time has already started to judge other actions. As the motion simply says that this Council note the report, and it is a report worth noting, I support the motion.

The Hon. DIANA LAIDLAW: To conclude this debate, I thank all members who have spoken on the matter including the Minister who addressed this motion in his usual colourful style, more colourful than accurate in respect to the remarks and observations that I made in support of the motion that I moved.

I will go over the few points that I made initially. It is an odd priority for the Government at this time to be commiting $5 million—although the Minister may claim that it is a cost neutral exercise—of capital funds to a project when the Public Works Standing Committee noted many times the high standard of current accommodation occupied by the Health Commission and DCW. Compared with accommodation in the non-government sector—and also a number of offices of the DCW that I have visited in the field—the accommodation is most definitely of a high quality. It is a pity that scarce capital funds are being channelled for further improvement of accommodation in the administrative sector of these very important fields of health and community welfare.

The Minister said many times that the project is cost neutral. I believe that he should read more closely the report of the Public Works Standing Committee.

The Hon. M.J. Elliott: Are you suggesting that he note it?

The Hon. DIANA LAIDLAW: It would be better not only if he noted it but also if he read it because he will see that there are qualifications in that report about the break even commitment being achievable. I quoted those qualifications. They are not my observations, I am not seeking to sensationalise the issue, I am simply quoting what the Public Works Committee stated on this point when it raised questions whether this project would ever break even. It raised a number of options which it suggested would help to ensure that the break even commitment was more achievable. I will not go through those again, as they are outlined in my contribution on 24 February on page 2995 of *Hansard.*

I would add that the issues that the Minister keeps stressing in respect of organisational fragmentation, efficiency and effectiveness are not issues that the Liberal Party wishes to contest as issues in their own right. However, we do object most strongly that these legitimate issues are being used by the Minister and the Government as a smokescreen for full amalgamation of the Department for Community Welfare and the South Australian Health Commission. That is an insult to the many people who have an intense interest in the human services sector in this State and who are trying to address the discussion paper that the Minister has presented on this subject—and he seeks *ad nauseam* to reassure us in this Parliament and elsewhere that it is a genuine consultation program which he wants and which he is prepared to oversee. But, it is quite clear from evidence presented to the Public Works Standing Committee by representatives of the South Australian Health Commission that this project of collocation and relocation of the Department for Community Welfare and the South Australian Health Commission will only ever be cost neutral if full amalgamation of the commission and the department takes place.

I believe that the deception of the Minister and the Government in this matter is totally unacceptable, and that it is important that this further instance of deception, in noting the report of the Public Works Standing Committee, be exposed. However, I reinforce my concern about the genuineness of the Minister and the Government concerning full consultation on the four proposals that the Minister has suggested for future administrative arrangements and service provision arrangements between the DCW and the Health Commission. I noticed today, by chance, when looking through the discussion paper 'Primary health care in South Australia', issued just a few weeks ago by the Minister, that there is a section (on page 13) entitled 'Amalgamation', which reads:

> It is anticipated that the South Australian Health Commission and the Department for Community Welfare will be amalgamated from early 1989.

So, notwithstanding all this pretence of consultation concerning future arrangements for the commission and the department, it is stated quite baldly in the discussion paper issued under the Minister's signature that amalgamation is to take place from early 1989. There is just no doubt from reading this Public Works Standing Committee report that an amalgamation is central to the agenda for this collocation and relocation of the commission and the department. I think that the cloak and dagger way in which the Minister, in particular, is acting in this whole matter is disgusting. I hope that members support the motion, because I believe that it pertains to an extremely important matter in terms of ongoing discussion and the Minister's agenda in respect of amalgamation of these two very important parts of the welfare and human service sector in South Australia. I thank honourable members for their contributions to the debate.

Motion carried.

SNAPPER REGULATIONS

Adjourned debate on motion of Hon. Peter Dunn:

That the regulations under the Fisheries Act 1982, concerning snapper, made on 14 January 1988, and laid on the table of this Council on 9 February 1988, be disallowed.

(Continued from 6 April. Page 3779.)

The Hon. G.L. BRUCE: I note that the Hon. Mr Cameron had the call, but I do not know whether he wants to exercise that right or not.

The PRESIDENT: It is a bit hard if he is not here.

The Hon. C.M. Hill: He got called out to the phone.

The Hon. G.L. BRUCE: I am simply saying that I do not know whether or not he wants to respond. I oppose the motion moved by the Hon. Mr Dunn. I do so on the basis of the evidence which was given to the Subordinate Legislation Committee on 24 February 1988, and tabled in this House on the same day, and also the evidence given on 2 March 1988 and tabled in this House on that day. As well as the verbal evidence given at these hearings a vast amount of printed matter was presented and tabled in this Council as evidence.

The Government does not support this disallowance motion. The South Australian snapper resource is the basis of major commercial and recreational fisheries. In 1984, the Department of Fisheries undertook a review of the then fishery. This review indicated that, given the then current levels of effort, the snapper resources were not over-exploited. The 1984 review also strongly advised that effort be retained at the then current levels. If effort increased, there would be a need to further modify the management arrangements to compensate.

In 1987, a further review took place, and this identified that effort had increased in all sectors, both the commercial and recreational, netting and line. To compensate for this increase, the review recommended a number of measures that were aimed at sharing the restrictions between the sectors. The Government released the review and invited public comment. As can be expected, a large number of submissions from both commercial and recreational organisations and individuals were received. Given the finite nature of fish resources, the increasing demands by each sector for a share of these resources, the increasing demands by each sector for a share of these resources, and widely varying views and interests of each group, it is not surprising that there is no easy solution to the resource sharing question when fisheries management arrangements need to be amended.

After full consideration of all views submitted, the Government chose to restrict all sectors by, primarily, the following measures:

Placing a total quota of 20 tonnes of snapper on the net sector of the commercial fishery. It should be noted that this is approximately 50 per cent of the historic catch taken by this sector over the past three or four years.

An increase in the legal minimum length for both the recreational and commercial industries from 28 cm to 38 cm. This is in response to the increased effort (therefore fish mortality). The increase in the legal minimum length will result in an increase of total catch by 25 per cent by weight, but significantly reduce the number of snapper taken. This is due to the balance between growth, fishing and natural mortality, exploitation rate and fishing effort.

Restricting individual licence holders in the long line sector to a maximum of 400 hooks. This is a significant reduction from the 1 000 to 1 200 hooks used by the major operators in this sector.

The introduction of a bag limit of 15 snapper per person per day for snapper between 38 and 60 cm, and two per person per day for 60 cm and above. In addition, a boat limit for recreational anglers was implemented. These limits are based on the Government's objective to provide recreational access to all South Australians (and for that matter interstate tourists) but to limit an individual's take to that required for personal and family needs. The boat limit is aimed at containing the total fishing effort (fishing mortality) of each unit.

As you can see, these measures, contrary to the incorrect assumptions made by the Hon. Mr Dunn, are aimed at all sectors contributing to the impact of restrictions in the fishery as a whole. Examination of Mr Dunn's opening remarks clearly indicate the fundamental error that the Opposition has with fisheries management. Mr Dunn clearly differentiates that there are a number of major components comprising the fishing industry.

However, he states that these are 'the professional fishermen who utilise the resource and the recreational fishermen who use it for sport and enjoyment—then of course there is the tourist aspect of the industry.' Fundamental to the question of fisheries management is the need to recognise that the taking of fish for recreational and/or tourism needs is a commercial use of those fish species, as is those taken for sale.

Again contrary to what Mr Dunn has stated in this presentation, the Government and the Cabinet have addressed any concerns that fishermen may attempt to conceal net caught catch by declaring it as line caught. This has been achieved by Cabinets endorsing the requirement that, whilst licence holders are engaged in any fishing operations, they must not have on board their vessel any other fishing gear commonly used to take snapper. This does not affect rock lobster pots. This is to be implemented by licence condition at the time of the next licence renewal, which is 30 June for the marine scalefish fishery and the restricted marine scalefish fishery. In the interim, the Director of Fisheries has implemented the intent of this measure by recently issuing a notice under section 43 of the Fisheries Act 1982.

Detailed examination of Mr Dunn's comments indicates that he bases them solely on the Department of Fisheries responsiblities for the equitable distribution of the State's fish resources as contained in the provisions of section 20 of the Fisheries Act 1982, which he quoted so I will not repeat it. I note that, whilst calling for the disallowance of the regulations based on his perceived belief of inequity, he does not offer an indication of what is equitable. Due to the diversity of views and expectations of the various sectors competing for the State's fish resources, it is not possible to definitely quantify equity. For this reason, the determination of 'equitable distribution' rests with the Government of the day in view of the submissions received from the public.

As discussed previously, the Government and the department undertook very extensive consultation with all sectors to identify the range of views. Contrary to Mr Dunn's belief, the regulations were amended to distribute the impact of additional necessary management arrangements across all sectors, not on the professional sector only as Mr Dunn clearly implies should be done.

For this reason the Government does not support the motion of disallowance. I again remind members that the regulations are in response to increased total effort and fish mortality in the snapper fishery by all sectors since 1984. The amended measures are aimed at reducing this effort within the fishery whilst maintaining the Government's objectives, policies and principles for both the commercial and recreational sectors (as well as the fish consumer who wishes to be able to purchase fresh fish in South Australia's retail outlets). Disallowance of these regulations will provide for even greater escalation in overall effort and fishing mortality as each sector 'scrambles' to maximise its demands for what, it must be remembered, is a finite resource. Such action would probably result in the need for even more

radical corrective action in the future. For these very sound and sensible reasons I urge this Council not to support the motion.

The Hon. M.J. ELLIOTT: The Democrats will not support this motion for disallowance. I have certainly been lobbied by interested amateurs on both sides of the argument. Some people have been concerned that they have been asked to take an unfair share of the brunt of the cutbacks, but other groups, such as the South Australian Inshore Fisheries Association, which represents a large number of councils in the areas affected and which is very concerned about the impact on amateur fishermen, say that they support the regulations.

I have not a great deal of expertise in regard to the snapper stocks in the Upper Spencer Gulf, apart from my experiences when I caught a snapper in Whyalla with a very small hook. It was on a suicide mission! I was fishing for much smaller fish. The hook was about 1 centimetre long and the snapper was the length of a folded out *Advertiser*. It was a lovely catch. That is the extent of my knowledge of snapper in the Upper Spencer Gulf other than what I have gleaned from the submissions that I have received.

However, I have been aware of what has been happening to fish stocks generally in South Australia. Unfortunately, too often we have reacted after severe damage has occurred. The evidence is clear that stocks at the top end of Spencer Gulf have declined quite markedly, and urgent action is required. Indeed, it would be irresponsible of us at this time to disallow a regulation that is tackling that problem. For that reason I will not support the motion for disallowance.

However, I urge the Government most strongly to consider carefully the question of net fishing. I believe that the days of the professional net fishermen at the top end of Spencer Gulf in particular probably should be numbered. I do not suggest the immediate stripping away of licences or anything like that, but perhaps a buy-back scheme should be implemented with the suggestion that fishermen might like to go into line fishing. I am not suggesting that there should be no professional fishing in that area at all, but there must be some way to control the effort. Unfortunately, a net fisherman can go out and in one day catch a couple of tonnes of fish. Especially in November fishermen can go up in a plane, see a snapper school in fairly shallow water, take out a boat, throw down a net and catch a large number in one fell swoop.

The Hon. G.L. Bruce interjecting:

The Hon. M.J. ELLIOTT: Yes. I believe that a much better way of controlling effort is to have long line fishermen catching snapper. I hope that the Government will act fairly soon but in fairness to those net fishermen who operate at the top end of Spencer Gulf. I hope that there will be some indication that the Liberal Party will support such a move in the long run. With those few words I indicate that the Democrats will not support the motion for disallowance.

The Hon. PETER DUNN: Much of what has been said is quite correct. This motion asks the department to reconsider the matter. It appears, given the Government's response, that it has not really addressed what I said in my contribution. I would like the Government to reconsider the issue, because the situation is not equitable. That is all I am saying: I am saying that we must take pressure off the industry, but the present method of taking off pressure is not equitable. The evidence is very clear. Because that evidence should be reiterated, I seek leave to continue my remarks later.

[Sitting suspended from 5.58 to 7.45 p.m.]

The Hon. PETER DUNN: Prior to the adjournment I was saying that I was disappointed that the Government and the Democrats had not agreed to disallow this regulation. The Government in its response said that in 1984 the industry was all right but in 1987 the increase in pressure by both amateur and professional fishermen had caused the industry to decline to such a degree that it is now considered to be under some threat. The department in its wisdom (and it has not been terribly wise) said that it would cut back. I agree that there must be a cut back and it must be equitable. If we are going to cut back on the industry we must cut back on everyone. The matter ought to go back to the department for it to look at again because the cuts have not been equitable. The Department of Fisheries contribution to the Subordinate Legislation Committee stated:

> Whilst endeavouring to be equitable in the distribution access arrangements of paramount importance is the need to provide adequate measures of stock maintenance.

It maintained that the cuts must be equitable. Of course they must be, but they have not been equitable. It is not equitable because the cuts are in the wrong place.

Members interjecting:

The PRESIDENT: Order!

The Hon. PETER DUNN: The industry is declining because the small fish are being netted and damaged. If we read what the South Australian Recreational Fishing Advisory Council says—

The Hon. G.L. Bruce: How many have you caught?

The Hon. PETER DUNN: Hundreds. I have not had the opportunity to catch many snapper in recent years. I mostly stick to King George Whiting, if possible. Snapper fishing is a great sport and it attracts tourists and others outside the industry.

In evidence to the Subordinate Legislation Committee the council states that by netting fish many are damaged and do not recover. Those fish are lost and do not breed. That is where the industry should be cut back. It has been cut back to 20 tonnes—an enormous amount of fish. The department needs to look at that regulation again and needs to make it a little more equitable. I agree with increasing the length of the fish to be caught, as that is a very sound practice. One only has to look at what happened at Murat Bay when it allowed net fishing to take place there. Line fishing dropped from about 30 fishermen to about eight. Since netting was banned in the harbour, it now has over 20 handline fishermen making a reasonable living. As I stated originally, the fact that it is so easy to net big tonnages of snapper out of northern Spencer Gulf is the problem in the industry today. For those reasons I ask the Council to support my motion.

The Council divided on the motion:

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

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

Majority of 2 for the Noes.

Motion thus negatived.

ELECTORAL BRIBERY LAWS

Adjourned debate on motion of Hon. R.I. Lucas:

That this Council—

1. Expresses its concern at the possible ramifications of the narrow interpretation of the bribery provisions of the Common-

wealth Electoral Act for elections conducted under the State Electoral Act in view of the similarity between the Commonwealth and State provisions.

2. Calls on the Attorney-General to obtain an urgent ruling from the Electoral Commissioner as to the scope of the State electoral bribery laws and determine, after discussions with the Electoral Commissioner, the need for amendments to clarify the law and report back to the Parliament.

3. Urges the introduction of any possible required legislative amendment prior to the next State election.

(Continued from 17 February. Page 2814.)

The Hon. C.J. SUMNER (Attorney-General): The Government opposes this motion. It is in a category of motion that is becoming increasingly common in this Council and is designed purely to provide a platform from which the Opposition can criticise the Government on a political basis, whether or not there is any substance in the motion and whether or not it has any special relevance to State Government. In this case the basis of the criticism arises out of a Federal by-election, namely, the by-election in the Federal seat of Adelaide, during which a barbecue organised by the Australian Labor Party was held. Apart from some gratuitous attacks on the Premier, the motion is a vehicle for a quite vicious attack on two Commonwealth statutory officers, namely, the Federal Electoral Commissioner and the Federal Director of Public Prosecutions. Really, it is not directly related to the State Government but has been used by the mover to imply that there is something wrong with State laws in this respect.

The motion's underlying political purpose is plain for all to see and the speech of the honourable member who introduced the motion reinforces that view. I will not therefore reply at length and I have no intention of canvassing the blatant and self-serving political statements made therein, but I intend to make some brief points. First, it is not necessary to express concern about the possible ramifications of a narrow interpretation of the bribery provision of the Commonwealth Electoral Act. Indeed, I suggest to the Council, and perhaps in particular to the Democrats, that it would be somewhat foolhardy to join in the mover's intemperate attacks on the Commonwealth Electoral Commissioner and the Federal Director of Public Prosecutions because, if one reads the speech in support of this motion, one has to come to the conclusion that that is what it is: it is an intemperate attack on those two statutory independent officers.

I therefore believe that we should not support the motion on those grounds and give credence to what is undoubtedly a vicious and unwarranted attack on two independent Federal statutory authorities. We should examine our own law to see if it is adequate. Section 109 of the State Electoral Act 1985 makes a simple statement about the question of electoral bribery and leaves it to the common law in courts to decide whether in specific cases an offence of electoral bribery is made out. I refer to *Hansard* of 9 May 1985 (page 4079) when this issue was specifically debated during the passage of the new Electoral Act, which became the Electoral Act 1985. The issues raised on the question of electoral bribery were, I believe, adequately and properly canvassed in that debate and Parliament decided that the clause introduced by the Government relating to electoral bribery should be passed. Section 109 (1) of the South Australian Electoral Act 1985 provides:

> A person who offers or solicits an electoral bribe shall be guilty of an indictable offence.
> Penalty: Imprisonment for 2 years
> (2) In this section—
> 'bribe' does not include a declaration of public policy or a promise of public action;
> 'electoral bribe' means a bribe for the purpose of:
> *(a)* influencing the vote of an elector;
> *(b)* influencing the candidature of any person in an election; or
> *(c)* otherwise influencing the course or result of an election.

That is the simple statement of the law relating to electoral bribery in this State. The State Act seeks to define its scope by doing two things: first, it uses the concept of an electoral bribe, that is, a bribe that is for the purpose of doing certain things in relation to an election (influencing votes of electors, candidature, and the course or result of an election); and, secondly, it leaves the very concept of bribe undefined. Section 109 of the State Electoral Act is not a code and its proper interpretation will need to resort to common law principles. Indeed, I suggest that a code of principles in this area is probably not tenable for the reasons that I will outline.

I now deal with the common law offence of bribery. Bribery at a parliamentary election was, and still is, a misdemeanor at common law and, as such, is punishable on indictment by fine or imprisonment. In other words, even if section 109 were repealed today by this Parliament, the common law of bribery would still apply to its fullest extent. That offence has been defined in *Halsbury's Laws of England*, Third Edition, Volume 14, and on page 213 the following is stated:

> Wherever a person is bound by law to act without any view to his own private emolument, and another by a corrupt contract engages such person on condition of the payment or promise of money or other lucrative consideration to act in a manner which we shall prescribe, both parties are by such contract guilty of bribery.

Furthermore, an attempt to bribe is also a common law offence. This digression into the common law is essential to understand the import and scope of section 109. Thus, section 109 of the State Electoral Act will be breached, and the person in breach may be liable to prosecution if, first, he or she has engaged another person to behave as he or she shall prescribe by a means of a corrupt contract. It should be noted that in this context 'corrupt' imports intention, that is, actions that are wilful or intentional. It does not mean wicked, immoral or dishonest, but it draws attention to the fact that there must be an intention to do something corrupt. It means doing something knowing that it is wrong and doing it with the object and intention of doing that which the law forbids.

Secondly, to be liable for prosecution, he or she must make or promise to make a payment of money or other lucrative consideration. The provision or the promise of refreshments may amount to other lucrative consideration. Page 215 of Halsbury states:

> It is clear from the authorities that such treating of voters, as a general rule, shall not be regarded as bribery if it takes the form of refreshment to be consumed at the moment and not pocketed, reserved or promised for future enjoyment.

However, whether or not it is to be regarded as bribery depends on all the circumstances such as the proximity of the events in question to an election, their monetary value, the intention of the organisers of the function, where refreshments are offered and so on. Again, at page 220 Halsbury states:

> . . . clear and unequivocal proof is required before a case of bribery will be held to have been established. Suspicion is not sufficient, and the confession of the person alleged to have been bribed is not conclusive. Bribery, however, may be implied from the circumstances of the case and the court is not bound by the strict practice applicable to criminal cases, but may act on the uncorroborated testimony of an accomplice . . . A corrupt motive must in all cases be strictly proved.

I repeat that a corrupt motive must in all cases be strictly proved. Halsbury continues:

A corrupt motive in the mind of the person bribed is not enough. The question is as to the intention of the person who bribes him.

It is quite apparent that the common law has refused to give an exhaustive definition of the subject and has always looked to the exact proved facts, facts that must be proved beyond reasonable doubt in each case, to discover the character of the transaction.

It is not my intention in this response specifically to conduct a review of any opinion or advice of the Commonwealth Director of Public Prosecutions, who is an independent statutory officer, in respect of the legal effect or significance of the barbecue held on 14 January 1987. That opinion or advice was given in relation to specific allegations of fact by applying the relevant law of the Commonwealth. However, it is clear to me that the Director of Public Prosecutions, quite properly, resorted to the reasoning in the case of *Woodward v Maltby* (1959) VR 794. This was the case to which the Director of Public Prosecutions referred in his conclusions.

I believe that a proper and legitimate distinction can be drawn between a thing of value given or conferred on a voter in order to influence a vote pursuant to a corrupt compact or understanding and the use of the thing of value as a medium in itself for electoral advertising or as an occasion to aid in the conduct of the public aspects of an electoral campaign. I think that *Woodward v Maltby* was correctly decided. The nub of its reasoning is in the observation of Smith J. at pages 798 to 799, as follows:

Before the bribery section should be held to apply here it should be shown that there was an intention to induce voting for the candidate or to induce approval or gratitude towards the candidate and thereby to influence electors to vote for him or to refrain from voting against him and an intention to produce those results by means of the gift as distinct from the advertisement on it.

It is worth noting that the then Crown Solicitor, Mr G.C. Prior—now Mr Justice Prior—addressed this issue in 1983 when advising on an allegation arising out of a function held by the ALP at the Highbury Hotel during the 1982 State election. Some refreshments were provided at that function and the matter was raised by way of question in the Legislative Council by the Hon. Mr Griffin on 1 June 1983. The Crown Solicitor said that the supply of refreshments to constitute an offence under the then Electoral Act, which was the predecessor to the present Act passed in 1985, had to be 'with the view of influencing the vote of an elector'. That is clearly the principle that must be applied: is the action taken 'with the view of influencing the vote of an elector'?

However, the Crown Solicitor also pointed out that, while the function was held to influence voters, it could be argued that the supply of refreshments was merely an act of hospitality incidental to the primary purpose of the reception and that the supply of refreshments was not itself intended to influence the voters. In other words—and this is important—the Crown Solicitor, Mr Prior, drew a similar distinction, albeit applied to different factual situations, as the Federal Director of Public Prosecutions and the Federal Electoral Commissioner, that is, between a function designed to influence voters and refreshments provided in connection therewith or advertising for the function.

As I said, whether that distinction is made out—and there does not seem to be any doubt that the distinction is available at law, certainly from the cases that I have just cited from Halsbury, the Victorian case of *Woodward v Maltby*, where it was clearly the opinion of the State Crown Solicitor, Mr Prior, that a distinction between refreshments given to influence an elector and refreshments incidental to the function is a valid distinction at law—depends on the facts of each individual case and needs to be examined in that light. Clearly in the case of the Federal Adelaide barbecue, the Federal Director of Public Prosecutions felt that the evidence was not sufficient to say that the refreshments were provided with a view to influencing the vote of an elector, even though the function itself may have been. A similar conclusion was arrived at in relation to the Highbury Hotel matter. So, there seems no doubt on the law, irrespective of what the mover of this motion has said, presumably from some knowledge that he has gleaned from some source, that the distinction in law is available. Whether it applies in any case depends on the facts of that case.

I further argue that it would not be practicable in legislation to identify every possible circumstance which would constitute an electoral bribe. Even if factual circumstances could be identified—and I doubt that this could be done comprehensively—there would still be the question of the intention of the accused person. It would be unacceptable in a criminal matter such as bribery to create offences of strict liability where any question of *mens rea* or intention of the accused was excluded as an element of the offence. I consider that on the grounds of fairness, given the seriousness of the criminal offence of bribery and the public opprobrium, that attaches to it, an element of currupt motive or guilty intention must be retained as an element of the offence. This therefore makes the elucidation of specific factual situations as constituting bribery extremely difficult. It is the Government's view that it is neither necessary nor desirable and that the law in section 109 of the State Electoral Act is sufficient to deal with the matter.

It is not true to conclude, as the mover of this motion appears to do, that the provision of refreshments to voters will not and cannot constitute an electoral bribe for the purpose of section 109 of the Electoral Act of this State. Such acts could constitute electoral bribery depending on the circumstances, that is, depending on whether or not the motive underlying the offer is corrupt, that is, wilful, intentional and seeking the proscribed end, depending on the proximity of the offer to the election in question, depending on the nature, extent and monetary value of the thing offered, depending on whether the thing offered can be said to be, beyond reasonable doubt, the means of producing the intended result, and depending on all other relevant circumstances including how any proposed provision of refreshments is publicly advertised.

Legal advice in the case of the barbecue at the Adelaide by-election was that evidence was not available to make out the offence as outlined. That opinion was made by an independent statutory authority, the Federal Director of Public Prosecutions. Further, it is not the role of the Electoral Commissioner or the Attorney-General to give rulings *in vacuo* relating to the offence of bribery. It is for political Parties, candidates or affected persons themselves to seek and obtain any detailed opinion or advice that they may desire from a privately retained legal practitioner if they are contemplating action which they feel may possibly constitute a breach of law. Of course, the ultimate authoritative ruling on the scope of the electoral laws of this State is a matter for the courts, whether pursuant to the vehicle of appropriate criminal prosecutions or proceedings, for example, in the Court of Disputed Returns.

As I said, the mover of the motion seems to be under some misconception about the role of the Electoral Commissioner in these matters. He proceeds on the basis of a misconception abut the respective roles of the Electoral Commissioner and the Attorney-General of this State. It is not appropriate for the Attorney-General to seek a ruling from the Electoral Commissioner as to the scope of the

State electoral bribery laws, whether at the behest of this Council or any other body or person. Nor is it the responsibility or function of the Electoral Commissioner to give any such ruling. Even if it were, the Electoral Commissioner would need to seek legal advice from the law officers of the Crown.

Suffice to say, as one such law officer, I am satisfied that the law does not need amendment. The principles relating to electoral bribery are of long standing, comprehensible, require proof of guilty intention and must be applied to each factual situation which has given rise to any allegation of bribery. It is neither appropriate nor necessary for the Attorney-General to give a ruling on this matter and, of course, as I have said, it is not appropriate in any event for the Electoral Commissioner to give such a ruling. He would not be able to do so without resort to the advice of the law officers of the Crown or the Crown Solicitor.

Candidates and political Parties should as a matter of prudence in cases of doubt seek independent legal advice on the potential consequences of their actions. Nor do I see any need at this time to reformulate the law on this topic which was formulated after some debate in this Parliament in 1985. The law at present is simple in its statement but comprehensive, and the common law principles, which are applicable and well known, require a factual situation and proof beyond reasonable doubt of a guilty intention.

So, the law as it stands at present, in section 109 of the State Electoral Act 1985 and the common law, I believe, is sufficient to deter corrupt electoral practices that have any potential to undermine the free democratic vote, which is so important in our community. The reality is that this motion takes the matter nowhere. It was put up, as I said at the outset, as a vehicle for the mover to pursue a political purpose that was not really related in any way to the actions of the State Government or indeed State legislation. Therefore, in my view the motion should be soundly and decisively defeated by the Council, accepting as the Council should that this motion is, as I have said, a mischievous attempt at creating a political issue, when one simply does not exist, in relation to State law or the State Government.

I have noted that the Hon. Mr Gilfillan has placed an amendment on file, but it does not really change the situation to any great extent. I assume that if his amendment is passed he will support the motion. That is a matter for him to decide, but I hope that he will give some reasonable consideration to my remarks and to the views that I have expressed, which I believe are a correct outline of the law of this State. I do not believe that we ought to define more specifically the offence of electoral bribery. It is an offence on our statute books. Whether it is made out in any particular case will depend on the facts and whether those facts meet the principles I have outlined and, in particular, whether or not there is a corrupt motive, or a guilty intention in the mind of the person who it is alleged has been involved in electoral bribery.

I repeat that in my view, in a case like this, where one is dealing with an offence of bribery, which the community considers to be a serious offence and to which considerable public opprobrium would attach, it is fundamental to any question of an offence being committed that there be guilty intention or a corrupt motive. I do not believe that there is a basis for the passage of this motion. In any event, it would be a matter for the Attorney-General to determine. I have already given the Council my views on the topic, and they conclude with the view that there is really no case for amending the law relating to electoral bribery.

The Hon. I. GILFILLAN: I was very interested in the Attorney's remarks and I have certainly listened intently to what he had to say. It is interesting to observe that, had it not been for this motion, we would not have benefited from what I consider to be probably as adequate an answer to the issue as we are likely to get—and, in fairness, it was a very good answer. But I am not going to begrudge the mover of the motion credit for having been instrumental in getting that material before the Council by opposing the motion (subject to my amendments), as that would be very mean minded indeed.

I certainly dissociate myself completely from any personal attacks or innuendo in relation to the remarks made by the mover of the motion. My support for the motion, if it is amended, will be purely on the substance of it. I have no interest in witch hunting in regard to the event that was involved or in engaging in recriminations on individuals. That is of absolutely no concern to me at all. But, the fact remains that this event was the subject of considerable publicity. It raised questions not only for the public—

The Hon. C.J. Sumner interjecting:

The Hon. I. GILFILLAN: Well, the media and the general public were very curious and interested in this issue. If, of course, barbecues were to become a sort of acceptable bill of fare in election campaigning, we could imagine all sorts of massive competitive barbecues taking place, with, for example, Elder Park taken over by the Liberals, Bonython taken over by the ALP, and possibly Botanic Park taken over by the Democrats, with a BYO—that is the way we would get our votes. However, without being flippant about that event, I do think this is a serious question to raise. In dealing with it, I am sorry that there has been a flavour of personal attack and possibly the colour and image of a bit of politicising, but so what? Very few issues are raised anywhere in our political scenario that do not have that sort of flavour. I repeat: I personally dissociate myself from any of the comments of that nature in the speech given by the mover of the motion, the Hon. Robert Lucas.

I think one of the reasons why this motion and others similar to it appear is that this Council lacks the procedures for a grievance debate. There is no scope for these subjects to be raised—and I think that they are very properly the responsibiliy and part of the workload of members of Parliament in relation to being discussed in a formal sense in this Parliament. How else could such a matter be brought forward except by a motion such as this? One cannot argue questions exhaustively, and no opinions can be given in the preamble to asking a question. So, I do not think it is fair for the Attorney to write off the exercise as being mischievous.

Certainly, there may have been a degree of political point scoring involved in the matter, but it depends I guess on what one determines as mischief. However, I think the issue itself is important. I think it has produced its own fruits already and probably a definitive enough statement about which I for one might be satisfied as being enough. But, having got this result from the motion I am certainly not now going to turn around and slap the mover in the face by voting against it—subject as I say to the acceptance of my amendments, which take the emotion and the slight loading of wording out of it. At this stage I take the opportunity to move my amendments to the motion, as follow:

Delete from the first line of the first paragraph 'narrow'.

That is a judgmental adjective relating to the word 'interpretation'. I find the rest of that paragraph quite reasonable. Secondly, I move:

Delete from the first line of the second paragraph 'an urgent ruling' and insert 'an opinion'.

I do this firstly because, although 'urgent' may be a relative term, I do not consider that it applies there. As to the

reference to ruling, I have been advised by the Attorney-General (and I accept this) that that is inappropriate, that 'opinion' is more appropriate, maybe. I indicate that if these amendments are accepted by the Council I will support the motion.

The Hon. R.I. LUCAS: I thank the Hon. Mr Gilfillan for his constructive contribution to the debate on this motion and for what I consider is a constructive amendment. I indicate my support for the amendment moved on behalf of the Democrats and the support of my Party for it. I think it improves the drafting of the motion. I also accept with good nature the comments that the honourable member has made that he does not necessarily agree with every syllable of my contribution in speaking to this motion. Nevertheless, we are here to debate the motion and we each interpret such things in our own way. I welcome the support from the Democrats and, indeed, I hope the motion is supported by the whole of this important Chamber of the Parliament.

I must say that I was somewhat disappointed with the Attorney's response. I believe that in one important respect he fails to understand this issue. This State is looking towards an election in perhaps 1989 or 1990, and the problem I foresee is that electoral debate between Parties and candidates could degenerate to a degree that I would consider to be very unseemly and certainly very costly for candidates and political Parties at the next election. I agree with the Hon. Mr Gilfillan in relation to one matter: I believe it would be useful to have on the record a further legal opinion from a number of sources as to how existing State law would be interpreted in the event of a similar challenge at the next State election.

In the words of the Hon. Mr Gilfillan, that legal opinion is probably the best we will get given the existing wording, but it would leave political Parties and candidates in a situation where every political Party or candidate would be free to operate under the same processes and procedures as the Labor Party and Liberal Party candidates operated under in the recent Adelaide by-election. That is, under certain guidelines as outlined in these rulings political Parties would be able to offer free barbecues to every elector in an electorate, indeed perhaps in eight or 10 marginal electorates, just prior to a State election. There has been no reference at all, in relation to the interpretation of the existing law, to the fact that very high all-up costs are involved for candidates and political Parties in the blanket free provision of food and drink, anything that under the existing Electoral Act would constitute bribery.

What we are also being asked to accept is that we can call people together for a bicentennial barbecue, for example, yet four or five political speakers could speak at the barbecue, none of them mentioning the bicentenary at all but all of them urging a vote for a particular Party candidate, whether Labor or Liberal, in the process making disparaging comments about the opposition, whether Labor, Liberal or Democrat. Yet we are being asked to accept, under our existing laws, both State and Federal, that people are not being provided with free food and drink at that barbecue *en masse* in order to influence their vote at the election. I do not believe that anyone other than perhaps the small number of lawyers in our community would accept that as a reasonable argument; most people would accept that, if in the heat of an election campaign people were invited to a barbecue for free food and drink and if political speakers urged a vote for a candidate and made disparaging comments about an opponent, that was being done with a view to influencing the votes of those who attend the barbecue.

The Hon. M.J. Elliott: What about a five-course meal? How many chops and sausages?

The Hon. R.I. LUCAS: I will come to that. That is the important point. We have entered this debate. The point is that we do not want to be caught up in bribery laws if, say, Rob Lucas buys Mike Elliott a beer at the hotel.

The Hon. M.J. Elliott: I won't hold my breath.

The Hon. R.I. LUCAS: Well, perhaps after a basketball match or something like that. Clearly, that would not constitute electoral bribery. On the other hand, I believe it is clear that, if I was to buy a five-course meal at Ayers House for the Hon. Mr Elliott and others and if that cost me $50 to $100 a head, I would have some difficulty in explaining how that offer was not bribery. However, the problem we face now is that our understanding of the Electoral Act when we debated this matter some years ago has been extended further. A precedent has been established under Federal law and supported by State interpretation in this Council tonight whereby mass handing out of food at free barbecues to all and sundry is, in effect, acceptable. Where, between that situation and the $100 free meal at Ayers House, can one stop? If I bought counter lunches or dinners at the Highbury Hotel at a cost of $7 or $8 a head, perhaps, under the interpretation, that would still not constitute electoral bribery. It is possible that free beer parties at local hotels could be conducted by candidates.

Earlier I canvassed the possibility that free rock concerts for young people could be conducted by political Parties. I do not believe that we could offer a free Whitney Houston concert, tickets for which might be worth $30 to $40, but we could hold a concert by a good local rock band that most young people might hear at a local venue for $5 or $6; the ruling before us would allow political Parties to offer free rock concerts to all young people in marginal electorates in a lead up to an election. If we are to have a healthy democracy where the size of the wallet to which the candidate or the Party has access is not the ultimate determinant of whether the candidate is elected, we are, given the current interpretation of laws, going down a rocky road indeed.

I could see a small Party such as the Australian Democrats (and I do not normally wear my heart on my sleeve for the Australian Democrats) or some other small Party facing significant problems due to lack of resources. New and fledgling Parties are trying to establish themselves in competition with the two major Parties, the Liberal Party and the Labor Party, which may well engage in a kind of auction, under the current interpretation of the electoral laws.

The Hon. M.B. Cameron interjecting:

The Hon. R.I. LUCAS: The Hon. Mr Cameron has provided us with a very interesting historical example. I fear that under the current interpretation we will face significant problems leading up to the next election. As I said, the two major Parties may well be able to compete but certainly smaller Parties will not be able to compete. There will be a situation of disadvantage. I also believe that the Liberal Party, in its electoral conduct, has always tended to be very conservative in these matters and that the Labor Party has always tended to be a little more adventurous, as evidenced by the bicentennial free barbecue for all electors in the Federal electorate of Adelaide—about 70 000 electors and 100 000 people. There would be competitive disadvantage for the Liberal Party as well.

I am not arguing a particular partisan position. I believe that in South Australia we should have a situation in which all political Parties and candidates, to as great a degree as possible, are able to compete fairly in the marketplace for the votes of the electors. Only 300 or 1 500, depending on

which press report you look at, attended the free barbecue in the electorate of Adelaide—a very small takeup response. However, with the increasing popularity and knowledge of Parties and candidates offering freebies, such as free barbecues, when an offer is made at the next election by whichever political Party or candidate, the response will be considerably greater than the relatively small response that was evidenced in the Federal electorate of Adelaide.

Therefore, in conclusion, I believe that we have a major problem. I am pleased that we have had a further opinion on that matter this evening. I believe that that has progressed the debate a little. I am pleased to support the amendment from the Australian Democrats. It will mean support from this Chamber of the Parliament for this important matter and it will be a matter that I will certainly pursue in the coming session. I believe that everyone in the Australian Democrats and the Liberal Party who is concerned with this matter should be applying their mind to ways of resolving this problem, possibly by way of legislative amendment some time in the future.

Amendments carried; motion as amended carried.

CRIMES (CONFISCATION OF PROFITS) ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 7 April. Page 3884.)

The Hon. K.T. GRIFFIN: The Opposition supports this short Bill. It originated in the House of Assembly as a private member's Bill and seeks to put beyond doubt that, when a court is considering a sentence to be imposed upon a person convicted of a criminal offence, application for forfeiture being made under the Crimes (Confiscation of Profits) Act is to be disregarded. In a case last year Judge Lowry of the District Criminal Court made some rather caustic comments about this legislation, believing that it was too harsh in relation to a person convicted of dealing in drugs. I did not share the judge's view and believe that that sort of reaction, whilst it may be appropriate in some cases, can be more adequately reflected in a determination of an application by the Crown for forfeiture of profits rather than being taken into consideration in fixing the sentence for which the offender has been convicted. Accordingly, I indicate the Opposition's support for this Bill, which has the effect of ensuring that in imposing sentence any question of application for forfeiture of profits from illegal activities is to be completely disregarded.

The Hon. BARBARA WIESE (Minister of Tourism): The Government also supports the Bill.

The Hon. I. GILFILLAN: I thank honourable members for their valued and supportive comments on this short but effective measure and look forward to supporting the second reading.

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

ELECTRICITY TRUST OF SOUTH AUSTRALIA ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 12 April. Page 3950.)

The Hon. BARBARA WIESE (Minister of Tourism): I rise briefly to thank honourable members for their contribution during the second reading debate on this Bill. I do not wish to take up much time of the Council in replying because many of the issues that have been addressed by honourable members will again be canvassed in Committee. A number of points were raised by the Hon. Mr Gilfillan in his contribution, which related to comments made to him by the former General Manager of the trust. Since the Hon. Mr Gilfillan was placing much emphasis and store on the points made by the former General Manager of the trust, it is appropriate also to have on the record the views of the present General Manager—the person who has to deal with the aftermath of Ash Wednesday. The current General Manager has provided the following statement:

I have been advised that the Parliament was given certain information last evening provided by Mr B.M. Dinham, a previous General Manager of ETSA. Mr Dinham is of course entitled to his views on any matter, but I am dismayed to learn that his views on matters with which he has had no involvement since 1983, when he retired, apparently were presented to the Parliament with some implied authority. The magnitude of the aftermath of Ash Wednesday had at that stage not even begun to be realised. ETSA had no idea that it might be found liable for losses which were incurred. In particular, Mr Dinham can have but the lay person's understanding of the financial aftermath of Ash Wednesday 1983 and its effects on the resources of ETSA and indeed the State.

I understand that it has been implied that, were ETSA's liability limited as proposed in the Bill, downstream property owners would have no entitlement to compensation. It should be appreciated that only about 2 per cent of fires are ignited from the electricity system and the people affected by such fires would have the same claims against their insurers as those affected by the other 98 per cent of fires, that is, those started by causes other than electricity. If the Australian Democrats' objections to clause 41 are based on Mr Dinham's advice, the above may well give them cause to reconsider their position.

The Legislative Council should note that Mr Dinham's comments were prepared in early January 1988—before the Bill was amended on the basis of the work of the select committee set up by the House of Assembly. The select committee sat from December 1987 to March 1988. I note that Mr Dinham did not appear before the committee to put forward his views during that committee's deliberations.

The Bill currently before the Legislative Council contains 40 amendments recommended by the select committee and approved by the House of Assembly. All members of the select committee believe that the current Bill is much improved as a result of evidence they heard and by their deliberations, which were lengthy and constructive. The only matter on which the House of Assembly divided was section 41, which proposes a limitation on the trust's liability for property damage. I would certainly argue, on behalf of the Government, that since a committee of members of this Parliament comprising members from two political Parties has had the opportunity to examine the Bill in considerable detail, the recommendations that have been made by that select committee should be treated with respect and taken seriously by members of the Legislative Council. Having made those few remarks, I think the best we can do at the moment is to move with as little delay as possible into the Committee stage.

Bill read a second time.

In Committee.

Clause 1—'Short title.'

The Hon. I. GILFILLAN: I listened with some interest to the Minister's second reading speech. She referred to my quote of Mr Bruce Dinham's remarks in relation to this legislation. It is important that the Committee realises that the excerpts which I chose from Mr Dinham's correspondence to me relating to the clauses of this Bill were selected as being appropriate to the amended Bill which had the benefit of the work of the select committee. I feel that it is an unfairly injurious reflection to be critical of Mr Dinham's

observations, because the Bill has been amended since he wrote those remarks. I make it quite specific for those who may consider the quotes of his letter that I read into *Hansard* that they were selected by me from a longer document, because I believed that they were still relevant to this Bill, including this clause and others.

Clause passed.

Clause 2 passed.

Clause 3—'Interpretation.'

The Hon. I. GILFILLAN: Several amendments that we have on file are related to the understanding of the effects of the Bill and the distinction between a 'private' and 'public' supply line. I refer to the obligation of the trust as compared with the obligation of the consumer or private landowner. It was interesting to note that the first draft of the Bill contained a clear definition of the point at which the distribution system ended, but that was removed from the redrafted Bill. I hope that this Committee procedure will enable some give and take in discussion on these matters.

We do not intend to be inflexible about the amendments that we have on file. Some of them are designed to promote some discussion on the matters concerned, but this amendment relates to the definition of the distribution system. This clause provides:

'distribution system' means—

(a) the network of cables by which the trust transmits and distributes electricity;

(b) the associated transformers and equipment of an electrical or other kind;

(c) structures for the support of any such cables, transformers or equipment,

and includes any cable, transformer, equipment or structure used on a temporary basis for purposes related to the maintenance, repair or replacement of any part of the distribution system:.

The amendment would then add the following:

but does not include any such cable, transformer, equipment, or structure between the point of supply to a consumer and the point at which electricity is consumed.

The Minister may be able to explain why the original wording was altered to delete the definition relating to the end of the distribution system. Part of the purpose of this clause is to define as precisely as we can the section of the line that is the responsibility of the consumer or the landholder on the understanding that, the smaller that line is, the less will be the responsibility.

Other members have said that there may be some disadvantage in restricting or defining this point in so far as the obligations of this Bill are related to vegetation clearance. It seems of us that, if there is an obligation on the consumer to maintain a clearance of vegetation from the line, the smaller that line is, the greater the advantage to the consumer, and that the principle that ETSA is responsible for all the equipment required to get the power to the point of supply (however we define that, but it is very close to the consumer) is an advantage to the consumer and a proper exercise of the responsibilities of ETSA. I move:

Page 1, line 31—After 'distribution system' insert 'but does not include any such cable, transformer, equipment or structure between the point of supply to a consumer and the point at which electricity is consumed.

The Hon. L.H. DAVIS: I respect the thought that has gone into this and other Australian Democrat amendments. The Hon. Ian Gilfillan has shown great sensitivity and awareness of the complexities of this issue that we are now debating. However, I cannot support this amendment. I understand exactly what the Hon. Ian Gilfillan proposes to do by limiting the definition of 'distribution system'. He seeks to exclude from the definition the cable, transformer, equipment or structure between the point of supply to a consumer and the point at which electricity is consumed. He seeks to limit the liability of the receiver of the electricity, but I point out that new section 37 (1) provides:

Subject to this section, the trust will as far as practicable maintain the electricity supply through the distribution system.

If one reads that new section in conjunction with the amendment proposed by the Hon. Ian Gilfillan, I think one will find that the Hon. Ian Gilfillan's amendment limits the trust's obligation to maintain the electricity supply in that area between the point of supply to a consumer and the point at which the electricity is consumed.

The Hon. Ian Gilfillan may well respond and say that new section 37 is in turn capable of being amended. This amendment and the consequential amendment that seeks to limit the liability of the occupier, the householder or the landowner who consumes the electricity are amendments that, on balance, the Liberal Party is not inclined to support.

We have found the arguments advanced by the Honourable Ian Gilfillan persuasive, but at the end of the day a balance must be struck between the responsibilities and duties on the part of the Electricity Trust as the supplier of electricity and the rights and responsibilities which attach to the consumers of electricity. That is a very difficult matter of judgment, but on balance the Liberal Party is inclined not to tamper with the legislation as it now stands.

The Hon. BARBARA WIESE: The Government opposes the amendment. I agree with the remarks made by the Hon. Mr Davis concerning new section 37 and what the effects may be. I also suggest that if members look at new section 39 (7) they will find that the point made by the honourable Mr Davis is taken even further, in that this proposed amendment would place more of the distribution system in the category of public lines and therefore would be caught up in that new subsection 39 (7).

It is of considerable concern to the Government that the proposition is being put forward. I indicate that an early draft of the Bill contained an extension to the definition which was almost identical to that moved by the Hon. Mr Gilfillan. However, the select committee was ultimately convinced of the merit of an abbreviated definition because of the multiplicity of constructions established both before and after the creation of ETSA, such as, shopping centres, strata plans and multiple occupancies, etc.

So, it has not been an easy task to find an appropriate definition, but I think that the members of the select committee looked carefully at this issue and ultimately agreed on the wording that is now contained in the Bill. For the reasons outlined by the Hon. Mr Davis and myself, I believe that the amendment should be opposed.

The Hon. I. GILFILLAN: As regards the definition of 'distribution system' and an attempt to fix a division between that generally which is public and that which would apply to a private householder, I think it is important to look at my next amendment which relates to the point of supply. I will be moving an amendment as follows:

'point of supply' in relation to a consumer means the secondary terminals of a fuse maintained by the Trust to protect the distribution system from overload being the the last such fuse before the point at which electricity is consumed by the consumer:.

On balance that appears to be a sensible and practical definition of a demarcation line at which it fairly can be assumed that the trust has responsibility up to that point and that the private landholder or consumer has the responsibility from thereon. If the point of supply is a problem in relation to accepting the thrust of my series of amendments the earlier draft of the Bill provided that the point of supply was the meter box. It may be purely semantics, but that is not the nub of the debate. The point is whether or not we

put a point of definition as to what is the general distribution system in this demarcation line.

I ask a question that perhaps the Minister or her adviser could answer in relation to that. If we leave the definition of 'distribution system' without any cut-off point, new section 37 will provide:

37. (1) Subject to this section, the trust will as far as practicable maintain the electricity supply through the distribution system.

Does that mean that the trust will be responsible for the electricity supply right through to the toaster in the kitchen or is there something in this section which will excuse the trust from this responsibility? When the previous speakers were criticising the intention of this series of amendments, they referred to new section 39 (7) which provides:

(7) If vegetation is planted or nurtured in proximity to a public supply line contrary to the principles of vegetation clearance, the Trust may remove that vegetation and may recover the cost of so doing as a debt from the person by whom the vegetation was planted or nurtured.

Both speakers—and I hope that the Hon. Legh Davis is listening—made the point that it is less dangerous to the private landowner to have the vegetation treated under that subsection than the other option, which can apply to private land and which is provided in new section 39 (2) as follows:

The occupier of private land has (subject to the principles of vegetation clearance) a duty to take reasonable steps to keep vegetation (other than naturally occurring vegetation) clear of any private supply line on the land in accordance with the principles of vegetation clearance.

My interpretation of those two subsections—and this is the distinction between private and public—is that the word 'private' puts an onus on the landowner to initiate the steps. That is put forward as one of the advantages for leaving a large length of the supply line private as against public. If one looks closely at subsection (7) there is nothing to prevent the private landowner from going in and removing any vegetation of which he thinks he will have to bear the cost. There is nothing in that subsection which prohibits the private operator from doing the very same thing that we are implying he can do under subsection (2), which refers to the private line.

The Hon. L.H. DAVIS: There is some misunderstanding on that point because I believe that the public supply line would be on his land but would be going through to another property. If that line was on his land and supplying his property it would be a private supply line. So, I though the Minister was misleading in her remarks.

The Hon. I. GILFILLAN: I hope that I have not been misled by the Minister. I will ignore anything that may have been misleading. The issue raised is the difference between the definition of 'public supply line' and 'private supply line'. 'Public supply line' is the balance which does not come under the category of 'private supply line' and that, by definition in the Bill as it is currently written, means a part of the distribution system designed to carry electricity at a voltage of 19kV or less situated on above or under private land and supplying, or intended to supply electricity to some point on the land. I point out that I have an amendment on file which will vary that definition to read:

'private supply line' means any cables and associated equipment and structures—

(a) between the point of supply to a consumer and the point at which electricity is consumed by the consumer;

and

(b) situated on, above or under private land:.

My amendment would mean that, with the acceptance of point of supply, 'private supply line' would shrink to a small length of line. The argument that the Honourable Legh Davis and others from the Opposition have put to me is that there is more of an advantage to a private landowner to have the line over his property private rather than public because—and this is the point that I cannot accept—allegedly that private landowner can then exercise his right to deal with the vegetation in his own way. My interpretation of proposed subsection (7)—and this is under a public line—is that it still entitles the private landowner to do that work. There is no law against him doing that and therefore there would be no obligation for the trust to do it or bill for it.

I remain convinced that the amendments that I have on file and have moved are a distinct advantage—and certainly no disadvantage—to the landowner. That is proper, as the trust is responsible for the equipment which provides this private supply line as defined in the current Bill. That would cover quite large lengths of line, especially in a rural situation. I believe that my amendments have distinct advantages. What effect will an indeterminate distribution system have on ETSA's responsibility for domestic electrical appliances?

The Hon. L.H. DAVIS: I accept that the argument which the Hon. Mr Gilfillan is advancing has some force. I am persuaded by the point he has developed. He has not spelled it out in so many words, but I suspect that what he is really saying is that the definition of 'distribution system' as it now stands is perhaps a bit fuzzy, that one cannot be dogmatic about where the distribution system ends as far as the electricity consumer is concerned. Perhaps if we can start at the other end and ask the Minister, in relation to the definition of 'distribution system', as defined in clause 3, whether she can advise the Committee where, in her view, the distribution system would generally end—at the house or at the property. Quite clearly, that is of some importance when one examines subsequent sections of the legislation which refer to the trust's obligations in respect of the distribution system, the construction and maintenance of the distribution system, and so on.

The Hon. PETER DUNN: We really need to understand very clearly what we are doing here, because I think the Hon. Mr Gilfillan has got a point. In the case of supply to a house, there is a fuse box on the facia board that is ETSA's responsibility. Power goes from there into the fuse box and through a metering system. The Hon. Mr Gilfillan is saying that from the point of the primary 45 amp circuit breaker in the fuse box and there on into the house is the individual's responsibility, while up to that point it is ETSA's responsibility.

I am not sure that the Bill really needs the amendment that he has suggested. On page 2 the reference to point of supply is quite correct, in that the secondary terminals and fuses, etc., are part and parcel of the owner's responsibility. The meters themselves are ETSA's responsibility. ETSA's responsibility applies up to the point of the 45 amp fuse—and I think that is the point of supply that the honourable member is getting at.

The Hon. BARBARA WIESE: Various members have raised a number of points and I am not sure whether the points I will make will link together very logically, but I certainly hope that members will be able to make something from what I am about to say. The Hon. Mr Gilfillan referred to where the service point is situated and at what point the responsibility of the Electricity Trust stops and that of someone else takes over. The honourable member asked, for example, whether the Electricity Trust was responsible for the toaster or refrigerator, or whatever it was. The answer to that question is that ETSA is not responsible at those points. ETSA is not authorised to work past the service point. Once past the service point the electrical

matters become subject to the Electrical Contractors Association and the work of electricians.

With respect to the discussions that are currently taking place about whether or not private landholders will be better or worse off under the proposal put by the Hon. Mr Gilfillan or under the provisions of the Bill, I think this point can perhaps best be illustrated by using an example. Under the provisions of the Bill relating to private line arrangements, an orchardist, for example, would have the authority to care for his trees, to trim the trees and do all those things that are necessary to meet the requirements of ETSA with respect to clearing the area for power lines. However, under the provisions suggested by the Hon. Mr Gilfillan, in fact the orchardist would be required to remove his trees, because the line would have become a public line and ETSA would have the power to require the orchardist to remove his trees altogether. Looking at it in that context, one can see that the provisions of the Bill are preferable to the proposition put by the Hon. Mr Gilfillan.

The Hon. Mr Davis asked where the distribution system would end. The answer to that is that it varies according to each case. For an overhead supply of power the distribution system would end at the facia of the house, while for an underground supply of power the distribution ends at the footpath. To further complicate the issue, some fuse boxes are located at the footpath boundary while in other cases they are located in or on the house. Thus it varies case by case, which makes the issue very difficult to define for the purposes of legislation. Members of the select committee spent some time struggling with this matter.

The Hon. I. GILFILLAN: As to the question of where distribution and ETSA's responsibility ends, although what the Minister has outlined may currently be the case, I suggest that new section 37 will put at risk the limitation of that, unless there are details somewhere else in the provision that will counteract that. It says quite specifically:

> Subject to this section—

and that is where one would find a qualification—

> the trust will as far as practicable maintain the electricity supply through the distribution system.

No terminating point is spelt out in the definition of 'distribution system'. It is defined as:

> *(a)* The network of cables by which the trust transmits and distributes electricity... and includes any cable, transformer, equipment or structure used on a temporary basis for purposes related to the maintenance, repair or placement of any part of the distribution system.

As to paragraph *(a)*, it could be argued that that relates to a cable that takes electricity through to a power point in my kitchen. Under proposed new section 37 (1), it would be the responsibility of the trust to maintain the supply of electricity as far as practicable. A distinction between the public and the private line was made in relation to an orchardist. Again, the question may be asked, 'Does the existing legislation or regulation that virtually provides that there is a scorched earth policy also provide that anything underneath a public line will *ipso facto* be removed, or is there a set of principles under the Bill that allows some flexibility whereby fruit trees may be prescribed in relation to public lines?' Objection to my amendment appears to lie in the argument that a landowner can maintain certain trees under a private line that he cannot maintain under a public line. Does that apply because of existing legislation that will not be amended by this Bill, or is there a prediction about provisions relating to vegetation clearance that are yet to be spelt out?

The Hon. BARBARA WIESE: The point made earlier in regard to the plight the orchardist does not apply, but it would apply under the new legislation. The principles relating to removal of vegetation have been established, and about three years ago the Electricity Trust employed two professional horticulturists, among others, who were asked to refine and simplify ETSA's internal working instructions on vegetation clearance operations. These longstanding instructions would become the basis of the regulations under the amended Act.

Section 44 (3) requires that the Minister for Environment and Planning must agree with the regulations. Currently the Electricity Trust is represented on the Department of Environment and Planning Roadside Vegetation Management Committee, and we understand that that group would constitute the involvement of the Department of Environment and Planning in this process. There is no intention to make the clearance requirements more severe than those already in place. The rules to which I referred are broadly reproduced in the tree planting guide which the Hon. Mr Gilfillan might already have seen, which was published by the Electricity Trust and which is available at no cost from all its offices.

The Hon. PETER DUNN: We are talking about two separate issues. There is an amendment before the Committee, but we are talking about vegetation clearance, which does not have much to do with this debate. Under proposed section 37 (1) the trust will, as far as practicable, maintain the electricity supply through the distribution system. I read that to mean that, as far as practicable (and I guess that 'practicable' means that the trust will give itself the right to cut off power on days of extreme risk, but otherwise it must distribute power to that point), it is the responsibility of the trust to supply electricity to that point at all other times. I do not know whether any other definition is required.

This provision is clear; it allows for ambiguity and changes whether there is an aerial or underground supply or supply from a meter box to a garage. It provides that ETSA will supply electricity to an area, and that is broad enough. If we start making definitions under this amendment, something will be left out and it may tie up the trust so that it cannot supply. I live about 20 miles from the town, and every time I have someone come to my property I have to pay mileage. There will be a problem if a little elasticity for ETSA is not built into the Bill.

Amendment negatived.

The Hon. I. GILFILLAN: I move:

> Page 2, after line 2—Insert definition as follows:
> 'point of supply' in relation to a consumer means the secondary terminals of a fuse maintained by the trust to protect the distribution system from overload being the last such fuse before the point at which electricity is consumed by the consumer.

If I am correct in my earlier surmising that proposed new section 37 can be interpreted as extending the trust's responsibility right through as far as electricity is distributed, because there is no defined end to that, this amendment contemplates the fixation of a dividing line. Therefore, because my loss of the earlier amendment indicates that I do not have the support of the Committee in relation to the overall intention of this series of amendments, I indicate that I will not call for a division if, on the voices, it appears that I have lost.

Amendment negatived.

The Hon. PETER DUNN: Clause 3 provides that 'distribution system' includes 'any cable, transformer, equipment or structure used on a temporary basis for purposes related to the maintenance, repair or replacement of any part of the system. Does that include trucks and vehicles used by repair gangs? That has a bearing later in the Bill in proposed new section 41 (4) *(b)*, which refers to the immunity to liability. If that is the case and if a truck comes

under that definition, it will mean that if someone was driving to repair a line and they caused a fire through having a burnt-out muffler or were negligent, they would be immune from liability. We need to make this definition quite clear.

The Hon. BARBARA WIESE: The answer is 'Yes'. The truck must be considered to be part of the equipment for maintaining the distribution system. Therefore, it would be included as the honourable member has suggested. In fact, this was a matter upon which the select committee took evidence. Therefore, it was specifically considered by the committee and the clause reflects the view of the committee and its intention.

The Hon. L.H. DAVIS: I refer to the definitions of 'naturally occurring vegetation' and 'to nurture' in clause 3. I understand the great difficulty that exists in defining these two terms. 'Naturally occurring vegetation' is defined as meaning vegetation that has not been planted or nurtured by any person. I suspect that in real terms that will be very difficult to ascertain, particularly where something may have been planted some time ago. This is a definition problem. However, perhaps more particularly 'to nurture' in relation to vegetation means actively to assist the growth of the vegetation. There is a paradox in this definition in the sense that a landholder, in actively cutting back vegetation to keep it away from power lines, may be, in fact, assisting the growth of the vegetation. It would respond to the cutting back in many cases, and in doing this the landholder may unwittingly be trapped within that definition.

The Hon. BARBARA WIESE: This matter created some discussion in the drafting of the Bill as it was difficult to find an appropriate set of words to describe what needed to be included in the legislation. The word 'nurture' is used according to the Oxford definition of the word, the intention being that it will apply to that vegetation that a landholder had actively encouraged to grow, either by way of installing a watering system, staking the plant or performing some act designed to nurture the plant rather than having an indirect impact on its growth by way of lopping or trimming, as has been suggested by the honourable member.

In summary, it is certainly not the intention of the Bill that nurturing caused indirectly by some action should be taken into consideration for the purposes of this definition but rather that it should apply to specific acts performed by an individual designed to make a plant or tree grow.

The Hon. PETER DUNN: I can understand what the Minister is getting at, but the two go together. It only applies to naturally occuring timber or native vegetation, as I understand it, that has to be nurtured. Is fencing of native vegetation, to keep stock and feral animals out, nurturing, as that occurs frequently, particularly in my area? Further on in the Bill we see that it is the responsibility of ETSA to clear it and not the responsibility of the landholder. If I have naturally occurring vegetation that grows close to the height of power lines, what is the position? Later we will come to the definition of 'private supply line' and there are about 15 000 kilometres of such lines around the State, that is, swer lines alone. They will have to be kept clear of native vegetation. Under the term 'nurturing' I would expect that fencing it off to keep stock and other animals out would be a form of nurturing, regardless of pruning, watering or thinning.

The Hon. BARBARA WIESE: It will be the intention for it to cover only naturally occurring vegetation. It would only be considered an act of nurturing if it was not naturally occurring vegetation that had been fenced off. In other words, the landholder would have had to plant the vegetation that had been fenced off for it to fall within the category of vegetation being nurtured.

The Hon. L.H. DAVIS: The Minister has already conceded that someone can nurture vegetation, albeit unwittingly, by cutting it back. To nurture it means to actively assist the growth of vegetation. One may assist it by cutting it back, even though you are cutting it down to restrain it from touching on the lines. Therefore, vegetation that has been treated in this fashion falls outside the definition of naturally occurring vegetation, which means vegetation that has not been planted or nurtured by any person. That definition becomes important because in new section 39 (2) a duty is imposed on an occupier of private land to take reasonable steps to keep vegetation, other than naturally occurring vegetation, clear of any private supply on the land. It is a relevant point.

The Hon. BARBARA WIESE: This is a difficult and pedantic debate in some ways. We are talking about two kinds of vegetation—naturally occurring vegetation or planted vegetation. The act of nurturing is a seperate issue and applies to that vegetation that has been planted rather than that naturally occurring.

The Hon. L.H. Davis: 'Has not been planted or nurtured'—naturally occurring vegetation means vegetation that has not been planted or nurtured by any person. If it has been cut back, it has been nurtured.

The Hon. PETER DUNN: The Minister is having some difficulty in coming to grips with this. If a property has a naturally occurring belt of timber or original vegetation on it and it is fenced off to maintain it, it has to be determined whether that is nurturing it because the power line will cross it at some point where it then becomes the responsibility of ETSA to keep it clear under clause 39 (2), whereas anything planted by the owner or previous owners is the responsibility of the then owner. Certainly the naturally occurring timber and that which was there when the property was cleared is still there but has been fenced off. It might be a long fence and run for several miles—I have a couple on my property. The power lines cross them and they have at this point been cut down by the distribution persons, in my case local government and now taken over by ETSA.

It is their responsibility to look after it, as I understand it. Do we have to take out the fence or fence off the easement where the line goes through? A lot of line is involved. Under the definition it is 19kV and under, and there is 57 000 kilometres of it. Much of it will travel over native vegetation that has been fenced off. Much is fenced off on Eyre Peninsula because it is on sandhills and the fence keeps sheep, cattle and other animals out.

The Hon. BARBARA WIESE: In a situation like that it would not be necessary for the landholder to take out the fence, but it would not be desirable for such a landholder to install a dripper system, for example. That would be nurturing the vegetation.

The Hon. L.H. DAVIS: We have a problem with this definition, as has been demonstrated, and I hope the Government will look at it.

The Hon. BARBARA WIESE: Although there may have been some lack of clarification in the discussion here, I hope that the matter of definition and how it will be applied will be clarified at the time the regulations attaching to this legislation are prepared. At that point the issues that have been discussed here in Committee will be answered and clarified to the satisfaction of members.

The Hon. I. GILFILLAN: I move:

Page 2, lines 18 to 23—Leave out the definition of 'private supply line' and substitute the following definition:

'private supply line' means any cables and associated equipment and structures—

(a) between the point of supply to a consumer and the point at which electricity is consumed by the consumer;

and

(b) situated on, above or under private land.

I will not speak to this amendment, because it relates to previous amendments.

The Hon. BARBARA WIESE: The Government opposes this amendment.

Amendment negatived.

The Hon. L.H. DAVIS: The definition of 'private supply line' provides:

'private supply line' means a part of the distribution system—

(a) designed to carry electricity at a voltage of 19 kV or less;.

Could the Minister elaborate on the significance of the voltage of '19 kV or less'?

The Hon. BARBARA WIESE: This matter was discussed during the hearings of the select committee, some members of which were not prepared to agree to a higher voltage being included in the legislation where a private landholder had responsibility for it. Since it was the desire of the Electricity Trust to cover the swer system, which was referred to earlier in our discussions on this matter, and which is used extensively in some parts of the State together with other voltages which are beneath the voltage of the swer system, it seemed appropriate to specify that voltage in the Bill. For that reason 19 kV was specified in this way.

The Hon. PETER DUNN: Are easements used anywhere in the State on 19 kV lines? There is a vast difference between a 19 kV line and a swer line which, by its very nature, is a single wire earth return (which is only a single wire), whereas a 19 000 volt line is a three phase line, or is the Minister using the swer lines as 19 000?

The Hon. BARBARA WIESE: Yes.

Clause passed.

Clause 4 passed.

Clause 5—'Repeal of heading and sections 36 to 42 and substitution of new headings and sections.'

The Hon. I. GILFILLAN: I move:

Page 4, lines 25 to 29—Leave out subsection (2).

New section 39 (2) provides:

(2) The occupier of private land has (subject to the principles of vegetation clearance) a duty to take reasonable steps to keep vegetation (other than naturally occurring vegetation) clear of any private supply line on the land in accordance with the principles of vegetation clearance.

I believe that that is an unacceptable burden for the occupier of private land. It is fraught with danger for those who may unwittingly put themselves at risk when carrying out that work.

I expect to hear some qualifying argument to say that the 60 day notice and various other factors are involved, but the purpose of the amendment is that we believe ETSA should maintain responsibility and be the implementer of maintenance with both the control of vegetation and the equipment on lines, even the private supply line.

The Hon. L.H. DAVIS: The Liberal Party cannot support this amendment. We have already foreshadowed our intention to seek to delete new section 41 which provides the trust with immunity from civil liability. We recognise that there is a community responsibility in bushfire prevention and control. There has to be a balance between the rights and obligations of all parties and, accordingly, we believe that new section 39 (2) is an appropriate section, because it requires the occupier of private land to have a duty to take reasonable steps to keep vegetation clear of any private supply line on the land. By definition, that private supply line is the line that is on private land and supplying or intended to supply electricity to some point on the land; in other words, it is electricity that will benefit that consumer. That is a fundamental point and I do not think that any reasonable person would deny the fact that there is some obligation on the part of a person to take reasonable steps to keep vegetation, other than naturally occurring vegetation, clear of any private supply line on the land.

I have raised my legislative eyebrows at the definition of 'naturally occurring vegetation'. We should also note that new section 39 (2) should be read in conjunction with new section 39 (7) which provides:

If vegetation is planted or nurtured in proximity to a public supply line contrary to the principles of vegetation clearance, the trust may remove that vegetation and may recover the cost of so doing as a debt from the person by whom the vegetation was planted or nurtured.

That then suggests that an occupier of private land has a duty to take steps to keep vegetation clear of the private supply line on his land and, also, there is a possibility that a public supply line may be on his land; in other words, a line may provide electricity to his house or property and a public supply line could also run through his land. New section 39 (7) recognises that the trust can remove vegetation which is planted or nurtured in proximity to that public supply line and recover the cost from the person by whom the vegetation was planted or nurtured. The Democrats have not objected to this clause. I believe that those new sections are a proper recognition of some responsibility on the part of landowners.

The Hon. BARBARA WIESE: The Government also opposes this amendment. I think the point that was made by the Hon. Mr Davis last night in his second reading contribution was an important one. He made the point that the Director of the CFS indicated in evidence to the select committee that, in terms of community attitudes, South Australia has the worst record of any State in Australia on the question of fire prevention.

I presume he was referring particularly to the willingness of members of the South Australian community to take some responsibility for preventing fires in this State. The notion of private landholders being responsible to keep their plantings clear of private power lines is a small step towards establishing a responsibility on landholders in this direction.

I know that a view has been expressed that there may be some danger involved for individual landholders who may clear vegetation from power lines, but I think that this fear has very little ground since it would be possible for private landholders who did not wish to remove vegetation themselves to retain a contractor to do it. It would certainly be possible for individual landholders to use contractors who are retained by the Electricity Trust of South Australia, or they could ask ETSA to undertake the clearance work itself at a cost to themselves. So, a number of options are available to enable people to make sure that the land around power lines is clear. I think that it is very important that landholders should accept some responsibility in this area.

I add that the select committee during the course of its deliberations toured a number of fire prone areas of the State, and members of the committee were shown cases where landowners had deliberately planted stands of exotic trees beneath lines with a view to hiding those lines. Clearly this is not only dangerous but it also creates an ongoing cost for all users of electricity. It is important that we move to change some of the attitudes of people in this State to their personal responsibility for the prevention of fires in South Australia. I do not think that the amendment moved by the Hon. Mr Gilfillan does anything to assist in that cause.

The Hon. PETER DUNN: I agree very much with what the Minister says about giving options for people to clear and keep trees pollarded or away from those areas. It is important that they incur that cost themselves or, if they have the equipment but do not feel happy about doing the

work themselves, they can employ contractors or get ETSA in to do it. My question relates to new section 44 (2) *(c)* which provides that the regulations may, regulate the clearance of vegetation from public or private supply lines. Proposed new section 39 (2) provides:

The occupier of private land has (subject to the principles of vegetation clearance) a duty to take reasonable steps to keep vegetation (other than naturally occurring vegetation) clear of any private supply line on the land in accordance with the principles of vegetation clearance.

My understanding of the principles of vegetation clearance is that we are not allowed to cut down any branch or tree that is in excess of 100 mm. Therefore, there is a restriction in cases of a large tree which does not meet the 45 degree rule used by ETSA. I can think of an example right now where a limb should be lopped but, because it is approximately 30 cm in diameter and does not come under the aegis of the vegetation clearance principles, it cannot be lopped under those regulations. However, if the Minister is going to regulate to allow that sort of clearance—I mean not to cut the tree down but to cut it back—I would like to hear what the Government's intention is.

The Hon. BARBARA WIESE: I think that the Hon. Mr Dunn is referring to the principles contained in the Native Vegetation Management Act. The passing of this Bill would fall under the category of any other Act for the purpose of the Native Vegetation Management Act, clause 20 of which suggests that subject to subsection (4), and to any other Act or law to the contrary, native vegetation may be cleared under a series of conditions. Therefore, if this Bill to amend the Electricity Trust of South Australia Act is passed, it will be possible for acts of native vegetation clearance to occur within the regulations contained in this legislation. It would be possible to do that even though under other circumstances such acts would not be possible because of the terms of the Native Vegetation Management Act itself.

The Hon. PETER DUNN: Does that mean that there is no need to refer to the Native Vegetation Management Act because the Government will regulate under section 44 to allow that to happen? I refer particularly to homes that are surrounded by sugar gums. They are villains of things that grow very high and they need to be pollarded and kept trimmed. Some of those trees are well in excess of the limitations for vegetation clearance. Probably, some native vegetation would fall within the same criteria, but I see no point in referring to it because that would merely put a limitation on situations where one probably did not need them. All one wants to do is trim the trees that do not come within the umbrella of the Native Vegetation Management Act. Am I correct in making that statement?

The Hon. BARBARA WIESE: The point that the honourable member made in the first place is correct; he said that he believed that it would not be necessary for a landowner to refer to the Native Vegetation Management Act concerning clearing vegetation for the purpose of the Electricity Trust requirements. The landholder will simply have to refer to the regulations which will apply to this Act and which will have to be applied for the purposes of vegetation clearance under this Act. Obviously, the objectives pertaining to vegetation clearance under this Act will differ in some way from the requirements under the Native Vegetation Management Act. However, there will certainly be regulations, and I presume that limitations will be incorporated in them for the guidance of landholders.

The Hon. PETER DUNN: I can see no point in referring to the priniciples in the Native Vegetation Management Act if they are not going to be used. Vegetation clearance really refers to trees smaller than those that can affect power lines. Once they get to that size the Native Vegetation Management Act forbids a person from doing anything to them. They cannot be cut down or cut back.

The ability to do that would have to be put in the regulations. Thus, I can see no point in referring to the principles of vegetation clearance in new section 39 (2)—unless this refers to other principles of vegetation clearance, perhaps the principle of pollarding.

The Hon. BARBARA WIESE: The point is that this legislation will empower people to clear vegetation for the purposes of ETSA requirements, and the regulations that will apply to this Act may very well allow a landholder to do things that are not permitted under the Native Vegetation Management Act, because the purpose is different and therefore in some cases the requirements in this regard may differ. On the other hand, limitations will be built into the regulations under this Act concerning just how far a landholder may go with native vegetation for the purposes of this Act.

For example, a landholder who prefers to clear native vegetation for a whole paddock away from the power lines may in fact not be able to go that far under the regulations attached to this regulation. Vegetation clearance may not be able to be undertaken to such an extreme extent. I am trying to make the point that the only purpose in drawing the Native Vegetation Management Act into the argument is to make clear the distinction between the provisions that occur in that Act and the provisions that will apply under this legislation.

The Hon. PETER DUNN: I do not want to be pedantic about this, but we are talking about vegetation which has been planted privately and which does come under the Native Vegetation Management Act. Native vegetation will be cleared by ETSA, but this vegetation that I am referring to has been planted by an owner occupier or a previous owner occupier and therefore does not relate to vegetation clearance. That can be cleared if the owner wants to clear it; for example, originally, the owner might have planted the trees for timber. I think I am reasonably clear on this matter now, but I cannot see the point in having reference to vegetation clearance principles in this Bill.

The Hon. BARBARA WIESE: The point of referring to native vegetation principles is that different native vegetation principles will attach to this legislation than are attached to the Native Vegetation Management Act. It is important to distinguish between the principles that apply in both cases. That is why it is mentioned.

The Hon. PETER DUNN: If it is not made clear we will finish up with an awful dust-up over this. Only ETSA will have the right to clear native vegetation. It is the only body that can clear it—I cannot do so.

The Hon. BARBARA WIESE: Under this Act the honourable member will be able to clear the vegetation which he is referring. It seems to me that he is confusing native vegetation and naturally occurring vegetation. They can be quite different.

Amendment negatived.

The Hon. I. GILFILLAN: I move:

Page 5, lines 4 and 5—Leave out subsection (5).

The Democrats oppose subsection (5). The idea that reasonable force can be exercised opens up a Pandora's Box as to what activities can be condoned under the exercise of powers of this authority. As this provides for a virtually open-ended authority, we do not believe it is appropriate and therefore the Democrats oppose the provision.

The Hon. L.H. DAVIS: The Liberal Party does not support the Democrats amendment. The provision in new section 39(5) is not an uncommon one. Providing an authorised

person with the power to use reasonable force may seem fairly strong, but in reality it is a necessary provision. One can imagine a circumstance where an authorised ETSA employee has to break down a gate in order to enter a property because of, say, fallen power lines following resistance from a landholder on a red alert day. One can easily foreshadow situations like that, and we are not averse to the existence of this provision.

The Hon. BARBARA WIESE: The Government, too, opposes the amendment. I point out that before the Electricity Trust sends officers to a property to undertake clearance of vegetation, or whatever the issue might be, under the Act, 60 days notice of intention to undertake such activity is required. Thus, the legislation does have protections for private landholders. However, I indicate that there have been cases where ETSA officers have been assaulted by landholders—where, for example, they have had ladders taken out from beneath them as they have been working, and where they have been subject to other sorts of physical abuse by people who have not approved of their activity. It is not unreasonable, where a member of an ETSA gang has been assaulted, for his work mates to take action to protect him. As the Hon. Mr Davis has indicated, there is such provision under other legislation. Officers of the trust would not use this power lightly, but it is a protection to which those officers are entitled.

The Hon. I. GILFILLAN: I note the opposition to this amendment. We believe that in all cases of physical confrontation it is the role of the police to take action. As our society is structured, resolution of a conflict does not lie in a personal physical confrontation between the two protagonists. I would be concerned if the trust had in mind to train its staff in jujitsu or any other form of physical defence so that they could look after themselves. I did not move the amendment lightly. We recognise that the trust should be entitled to carry out specified work after giving 60 days notice. Where a land-holder or any other person physically obstructs members of the trust in the exercise of their responsibilities, the trust should not be able to bring in its tanks and storm troopers and blaze a way into the property. It would much more appropriately have recourse to the police to ensure peaceful execution of the task.

The Hon. BARBARA WIESE: I point out that the provision refers to reasonable use of force. I do not believe that the trust would use storm troopers or tanks. I also point out that a trust officer who is stuck up a tree would find it a bit difficult to call a policeman to his aid.

Amendment negatived.

The Hon. L.H. DAVIS: New sections 40 and 40a relate to statutory easements. New section 40 legitimises informal arrangements under which parts of the distribution system have been established in, above or below the land, of which the trust is not the owner. It gives the trust power to enter land or to examine, modify, repair or replace parts of the distribution system. New section 40a establishes a statutory easement over the land; that is, the trust has the right to enter the land to maintain the relevant part of the distribution system, to take vehicles on to the land and so on. I ask the Minister (and the Honourable Trevor Griffin in his second reading contribution asked this question) if the trust enters land pursuant to an easement established under this new section and damage occurs, what is the liability of the trust?

The Hon. BARBARA WIESE: Since the formation of the Electricity Trust, and indeed before that, various forms of indemnity have been provided to land-holders who grant permission to ETSA to erect and maintain lines. In general terms, where damage has occurred and where reasonable claims were made for loss of crops or other damage as a result of ETSA's activities, those claims have been met by the trust.

The Hon. L.H. Davis: What will be the situation in the future?

The Hon. BARBARA WIESE: In the future, following the passage of this Bill, the situation will be the same.

The Hon. L.H. DAVIS: New section 40a establishes a statutory easement with respect to existing arrangements between the trust and landowners in South Australia. What will be the position in the future where the trust wishes to establish a right of entry to maintain or establish a distribution system or to examine, maintain or repair any part of the distribution system?

The Hon. BARBARA WIESE: It is the intention in the future for the trust to take easements for all extensions. That will necessitate negotiations taking place with property owners and, where it is appropriate, for compensation to be made. This has not been the case in the past and for that reason this new section is being inserted in this legislation.

The Hon. L.H. DAVIS: I move:

Page 6, lines 6 to 35—Leave out new section 41.

New section 41 is the key provision of this Bill, and seeks to make the trust immune from civil liability, that is, liability for property damage but not personal damage. The Liberal Party strongly opposed this provision at the second reading stage and, of course, will continue to do so in Committee.

The select committee established in the other place to examine the Bill took evidence from many parties. Traditionally the Government of the day has the opportunity to invite witnesses to address the select committee on various matters and to make comments about key provisions of the proposed legislation. In examining the evidence of the select committee one issue stands out above all others: the only witness who supported the granting of immunity from civil liability to the trust was the Electricity Trust itself. I was surprised to find that statutory authorities at both the Federal and State level were strongly opposed to the granting of immunity to the trust in liability arising from bushfires. For example, Mr Rodney Payze, the Acting Deputy Commissioner of the Highways Department said:

> The trust should be liable for all losses caused by its own negligence.

The Highways Department was strongly opposed to this notion.

Mr R.M. King, the Acting General Manager of Australian National Railways, gave evidence in writing to the committee. On behalf of Australian National, a statutory authority of the Federal Government, Mr King stated:

> I would like to express a strong concern relating to clause 40 of the Bill. This would make the trust immune from any civil liability in relation to property damage caused by fire. This is an objectionable provision of the Bill as it creates a special immunity which could cause liability to fall upon other parties, for example, Australian National, without prospect of relief from damages ultimately caused by the Electricity Trust. It would also prevent recovery of damages which can, on occasion, be very large for landowners, like AN, whose operations are widely dispersed and vulnerable to catastrophes such as fires. I do not believe it is reasonable for one authority, such as ETSA, to receive blanket immunity from liability for events, the risks of which are inherent in the nature of its operations.

There was also strong opposition from the United Farmers and Stockowners Association and from the East Torrens council. That council made a very valid point in a letter signed by Mr March, the District Clerk of the District Council of East Torrens. He stated:

> A fire which is started by the failure of consumer power lines would be the responsibility of the landowner whose land the lines

traversed. These power lines are installed and maintained by ETSA and the landowner has no control over the type, design or quality of ETSA's service. In the normal course of events it is impossible for land owners to sufficiently clear under power lines such that the failure of ETSA's conductor would not cause fire.

So, there is also strong opposition from local government. I know that the hour is late and I do not want to prolong the argument, but I want to stress very strongly that if new section 41 comes into operation it will give the Electricity Trust of South Australia an immunity which no other State Government department or statutory authority enjoys. It could create a very dangerous precedent in the sense that other such authorities would be encouraged to seek exemption.

The Liberal Party recognises that the Electricity Trust has, since the Ash Wednesday bushfire, done much to improve its service, maintainance and its surveillance of the distribution systems in fire prone areas. The management of the Electricity Trust has shown itself to be alert to the great bushfire risk and it is imperative that the rest of the community respond in a similar fashion.

Mr Macarthur, the Chief Executive Officer of the Country Fire Services, made an alarming statement that South Australia ranks last of all the States in terms of its awareness and concern for the dangers of bushfire. Therefore, there is a need throughout the State for people to address the bushfire danger. However, that is not to take away from the responsibility that the Electricity Trust has for civil liability. If the trust is made immune from civil liability, what duty of care will exist for it and its officers if they know whatever they do will be of no consequence.

What sort of organisational control will we have over employees in the field such as linesmen and maintenance staff if they know that they can do anything wrong and still win because no liability attaches to the Electricity Trust? It is decidely unhealthy to allow that state of affairs to exist. Equally concerning is the fact that the Electricity Trust is seeking exemption while, at the same time, the many private providers of electricity will not be exempt. My colleague the Hon. Peter Dunn will no doubt be able to give examples of private electrical contractors on the West Coast and elsewhere who may have lines running not too far from ETSA lines and who will be held liable on a bushfire day whilst ETSA escapes liability.

In terms of social justice there is no equity if private electrical contractors, of whom there are several in this State, particularly in the outback areas, are not granted immunity from civil liability. Of course we may have the irony of ETSA being exempt from civil liability itself and yet being able to take action against other parties for negligence that is directly or indirectly caused by damage to its property. It has been clearly demonstrated to my satisfaction that if this clause passes into law ETSA will have greater immunity from civil liability than applies in any other State in Australia. We accept that Ash Wednesday has changed the face of South Australia forever in terms of our own attitude towards bushfire prevention and controls, and in terms of community attitudes and standards towards such prevention and control, as well as in terms of the insurance that ETSA must carry.

Having said that, I must say that we simply cannot support the granting of immunity from civil liability. It has not been difficult for the Opposition to reach this point. We have examined other options such as putting a cap on liability, but that seems to be altogether too difficult. I am confident that ETSA has gone a long way in the past five years towards overcoming some of the problems which saw it being found negligent in the case of the McLaren Flat fire and, in a roundabout fashion, conceding the difficulties that existed with respect to their case in the Clare Valley fire where it settled before court proceedings commenced.

ETSA has been well aware of those problems, and I hope that the rest of the community is responding to the need to improve its standard of care in respect of bushfire prevention and control.

I recognise that the Democrats have already indicated support for this proposition, although they have on file an amendment which I foreshadow the Liberal Party will not be supporting. We believe that by striking out the clause it will leave the way clear for the law to operate in a clear and uncomplicated fashion. We do not believe that the Democrat amendment will necessarily achieve that aim, although we are in sympathy with the proposition that it contains.

The Hon. PETER DUNN: My question goes back to the original definition in proposed section 41 (4) *(b)*, which refers to overheating or malfunction of electrical or other equipment that forms part of, or is associated with, the distribution system. It therefore refers to trucks, and I assume that, if a truck is travelling to or from a breakdown and causes a fire, it is not liable. It is very much like a non-swimmer running up and down a jetty with a life preserver on and, the instant he jumps off the jetty, he is not allowed to wear his life preserver. This provision only applies on days of extreme fire danger. On the days when one expected a fire there would be no protection.

As the Hon. Legh Davis stated, ETSA has got its equipment to the point where I do not believe it will be proven to be negligent in future. That position will have to be maintained, and it is proper that the equipment be in good order so that it does not cause fires. It is irrational to have a clause like that where it occurs only on extreme fire danger days and on other days one can be liable. We know that these extreme fire danger days occur irregularly—once or twice a year usually. It seems silly, but I want the Minister to say whether trucks travelling to or from the scene are liable should a fire start from an exhaust. Are they legally liable?

The Hon. I. GILFILLAN: The Hon. Legh Davis observed that we have on file a similar amendment to leave out proposed section 41. As I argued at some length for that issue in my second reading contribution, I do not intend to go over it again. However, I indicate that the Democrats believe that it is totally inappropriate for this exemption to exist. We realise that under certain circumstances, such as the dreadful experience of Ash Wednesday in 1983, an event turns into a national disaster. My previous colleague, Lance Milne, other Democrats and myself have been long-term supporters of a national disaster fund which, in the long run, is the way we should go in dealing with national disasters from fire, water, earthquake, wind, and so on. It is unfortunate that nothing constructive has been done on this point to date. The issue before us at the moment is a quite extraordinary quest for a unique exemption. It would set a precedent and is entirely inappropriate. We oppose new section 41.

The Hon. BARBARA WIESE: It is clear that the Government opposes the amendment moved by the Hon. Mr Davis and that proposed by the Hon. Mr Gilfillan. I emphasise that the limited liability provision contained in the Bill is intended to apply only on those days of declared fire danger. Those days number something like 10 to 12 days a year.

This is not unprecedented legislation. The State Electricity Commissions of both Western Australia and Victoria have legislation which, to a greater or lesser extent, transfers to the occupier of the land on which the vegetation is rooted

the responsibility of keeping vegetation clear of power lines. The Minister sought Crown Law advice on the point, and it was confirmed that in Western Australia the electricity authority is not liable for fire damage where the fire results from the failure of a land occupier to keep vegetation clear. Section 54 of the Western Australian State Energy Commission Act 1979 provides:

(1) It shall be the duty of the occupier of any land on or over which vegetation is growing to fell or lop, or to remove or otherwise deal with, in such manner as is reasonable in the circumstances, so much of any vegetation, is necessary as to prevent it interfering with or obstructing, or becoming likely to interfere with or obstruct, the construction, maintenance or safe use of any supply system.

The wording of the Victorian legislation is virtually identical, and that is contained in the State Electricity Commission Act. In Part II, section 60 provides:

Subject to subsection (4), an occupier of land shall be responsible for the keeping of the whole or any part of a tree situated on the land clear of—

(a) a low voltage electric line which solely services the land he occupies; and

(b) a private electric line which is on land which is contiguous to the land he occupies and for this purpose he may enter onto the contiguous land and there perform any acts necessary to keep the tree clear of the line.

I think it is ironic that the Insurance Council of Australia, South Australian Division, warns of premium rises in South Australia when premiums are set nationally and the risk is extant in Victoria and Western Australia. There is little comfort in relying on ETSA's fire insurance, as evidenced by the post Ash Wednesday debacle.

It may well be the case that individual property owners dealing with Australian based insurers will have more success, as indeed many have, than will ETSA in relation to internationally based insurers. At least the Australian companies are under the control of Australian Governments. On Ash Wednesday some 68 fires were reported of which only 13 were attributed to ETSA. When fires occur on those days of Ash Wednesday ferocity, they are likely to be uncontrollable. Even the CFS is authorised to retreat in those conditions. One wonders how those with no connection to ETSA fared on that day. One suspects that, when there is no perceived capacity to pay, claims are more moderate. Earlier this year fires in the Mount Remarkable area were severe and, again, with no ETSA to sue, one wonders the outcome for those with extensive property damage. The answer is likely to be that they will receive the benefit of whatever insurance they had deemed prudent to hold.

In arguing last night against the new section, the Hon. Mr Davis relied on the evidence of the Law Society and the Insurance Council of Australia, South Australian Division. I think it is almost trite to say that each of those two bodies has a vested interest in maintaining the status quo. The Government does not believe that the best interests of the community are equally well served. As the remarks of the General Manager of ETSA have indicated, but for chance the total damage on Ash Wednesday could have been many times greater.

This provision is necessary. Comparisons have been drawn between the State Electricity Commission of Victoria and ETSA, both of which were implicated in fires on Ash Wednesday. The Victorian Government saw fit to implement legislation, with the implied limits on the authority's liability, immediately after the 1984 fires. The effect of Ash Wednesday on that authority was far less severe. In its case, $143 million was involved in a revenue of $2 billion, compared with ETSA's liablity of more than $200 million in a revenue of $600 million. One can see that the problem for ETSA has been much more severe than it was in Victoria but, even so, the Victorian Parliament saw fit to limit the liability of the electricity authority in that State.

ETSA is engaged in a program of erection of ABC and covered conductors, and that will involve the erection of about 1 400 kilometres of cable over the next five years in the most bushfire prone areas of the State. The sunset clause which limits liability for ETSA allows time for this project to be completed and it avoids the authority's being sent broke in the interim. The position will be reassessed at the end of that five year period, and I think that the provisions contained in this legislation are perfectly reasonable and should be supported by Parliament.

The Hon. Mr Davis indicated earlier that in his view ETSA would have no incentive to do things properly if its liability were to be limited. I point out to the Hon. Mr Davis that, under new section 38 of this Bill, for the first time ETSA will be obliged under a statutory provision to meet Australian and international standards. It will have a statutory obligation to ensure that it does things properly. It is quite false to suggest that the limitation of liability will have any effect on that.

I was also interested to hear the Hon. Mr Davis suggest that local government does not support the idea of limited liability. That is certainly news to me, because I know that discussions are taking place not only in South Australia but also nationally in local government circles concerning the question of liability for public authorities, and particularly local government authorities. Cases like the Ash Wednesday fires and the subsequent problem that has arisen for the Stirling council in South Australia and councils in other parts of Australia in cases of disasters have been of great concern to people in local government. Discussions are taking place as to whether some form of limited liability should apply for local government itself. I do not think that it is correct to say that local government in general would not favour the concept of limited liability when in fact discussions on this question are taking place in various parts of the country.

The Hon. Mr Dunn asked why this limitation of liability should apply only on those days of declared fire danger. It should be stated that in relation to this matter ETSA is attempting to take proper account of the rights of members of the community, but also recognises that in the interests of the community at large it is necessary to afford itself some protection in very extreme cases. It was therefore agreed that such limited liability should apply only on days of extreme fire danger, when there is nothing that anybody can do to prevent the damage likely to come from bushfires. ETSA is willing to accept its common law responsibilities on all other days of the year; it is only on those extreme days that it believes that it should be given some form of protection with respect to its liability for damage that might occur.

I am not quite sure of the point the Hon. Mr Dunn was making, as I understand he opposes this provision altogether. I am not sure if he was suggesting that the limited liability should apply on every day of the year or exactly why he raised this question. The point being made by ETSA is that it is only on those days when the fire danger is greatest—and when the potential damage is so enormous that it places impossible financial burdens upon it—that such protection should be afforded.

The Government strongly supports the view that ETSA's liability should be limited in the modest way in which it has been included in this legislation and I urge the Committee to support the new section and to oppose the amendments put forward by the two Opposition Parties.

The Hon. L.H. DAVIS: Can the Minister explain why no-one gave evidence before the Committee to support limiting the liability of the Electricity Trust and why the Government is persisting in granting the trust immunity from civil liability, given that there have been two inquiries into electricity supply in bushfire prone areas since 1983; in other words, since Ash Wednesday 1983 there have been the Scott inquiry and the Lewis report. Neither of those reports recommended limiting liability.

The Hon. BARBARA WIESE: I will have to ask the Hon. Mr Davis to repeat his second point, but with respect to the first point, as to why nobody gave evidence to the select committee in support of limited liability, I would like to point out to the Hon. Mr Davis that Mr Charles Muscat, who was at that time the legal adviser to the Local Government Association, gave evidence to the select committee and supported the concept of limited liability. If the honourable member cares to refer to the evidence of the select committee, in particular, the evidence given by the Local Government Association, he will find that at least one submission was made to the select committee which supported the concept of limited liability. Will the honourable member repeat his second question?

The Hon. L.H. DAVIS: That is a fairly thin answer. I am sorry that I missed Mr Muscat's support of the limiting of liability because there are some 500 pages of evidence which I perused at some speed. It would appear very much from my reading of it that Mr Muscat was the Lone Ranger in support of the Electricity Trust.

The Hon. Barbara Wiese interjecting:

The Hon. L.H. DAVIS: If you want me to read the Local Government Association's letter you will find that it is quite at variance with the point that you have made. It does not actually say in so many words what you have said. I have that evidence in front of me at the moment.

The other point that I wanted to make is: why is the Government persisting in seeking immunity for the Electricity Trust given that there have been two major inquiries into electricity supply in bushfire prone areas since Ash Wednesday 1983—the Scott inquiry and the Lewis report—and neither of those inquiries recommended the granting of immunity?

The Hon. BARBARA WIESE: The fact is that both the reports prepared by Scott and Lewis were put together before we learned the meaning of what taking out international insurance is really all about. Since those two reports were made we have discovered that all that international insurance grants the trust is the right to take legal action against the insurer; it does not actually give one insurance. That is the problem that the Electricity Trust of South Australia faces. That matter was not known, had not emerged and was not brought to the attention of either Scott or Lewis at the time that the two reports that they prepared were being put together. The advice upon which this current legislation is based is more up to date than the information to which Scott and Lewis had access.

The Hon. L.H. DAVIS: I am surprised that the Minister hides behind that argument. I would have thought that the trust would have found out in very rapid fashion immediately after Ash Wednesday what the insurance scene was. I am surprised that before Ash Wednesday the exact provisions of the insurance and the scope of the insurance protection which the trust had was not known.

I accept the difficulty and sensitivity of this area because negotiations are still taking place, but the point that I make remains standing and that is that there is very little support in the community—and indeed from statutory authorities of both the Federal and State Governments—for the proposition advanced by the Minister.

Will the Minister accept the validity of this argument? It is quite conceivable that a private contractor supplying electricity in a country area may be found to be negligent in causing a bushfire in that area which burns down an Electricity Trust property. The trust will be able to sue the private contractor supplying electricity for negligence and succeed in obtaining damages.

Perhaps I should explain that this relates to a situation where a fire is quite clearly caused by the negligence of a private contractor, while in the other situation the Electricity Trust is negligent and clearly responsible for a bushfire that burns down a private contractor's electricity supply shed or building but in relation to which, under the provisions of this Bill, ETSA would escape responsibility. That is a totally unsatisfactory situation. It cannot be justified and it is quite inequitable. That is just one of the many reasons why the Liberal Party cannot accept the proposition.

The Hon. BARBARA WIESE: As to the original point that the honourable member made about insurance and whether or not it was reasonable or otherwise that we should have known what taking out international insurance really meant, I think the honourable member needs to update his information base, as he does not seem to understand exactly what has been occurring internationally with respect to insurance in these areas. The fact is that ETSA was not in a position to know what taking out international insurance really meant until 1986 when it actually made claims on its insurers. It was not in a position to make claims any earlier than 1986, as it was not until that time that the magnitude of possible claims became known. At that point when the claims were made against the insurer, the insurer would not admit liability. We are now in a situation where ETSA has to take its insurers to court. So, this is a brand-new experience in relation to international insurance, and it is ETSA that is suffering from the decision made by the insurance fraternity in this case. Thus, the response that is now being made is based on the knowledge that we have about what international insurance really means.

In respect of the negligence of electrical contractors working in areas that are not covered by ETSA—and I presume that that is the point that the honourable member is raising—the fact is that should it be considered by those authorities that are providing an electricity supply in those areas not covered by ETSA—and this would include organisations like the Outback Areas Development Trust and the Cowell Electrical Supply Company—that it is appropriate to seek indemnity, presumably, they would need to seek a change to the Local Government Act to enable them to do so, and so they would have approach the Minister of Local Government.

The Hon. Peter Dunn: They operate outside council areas.

The Hon. BARBARA WIESE: I understand that Peterborough and Hawker would have to seek a change under the provisions of the Local Government Act if they were to seek indemnity in a way similar to the suggestion that is being made in relation to ETSA. But it is highly unlikely that those organisations would seek to have such a limitation on their liability, because it is hardly likely that there would be any fires since there are hardly any trees.

The Hon. M.J. ELLIOTT: The whole concept of new section 41 is truly amazing, and I am even more amazed by the terminology used by the Minister which she calls 'limited liability'. 'Limited liability' is in fact no liability on any day that a fire is really likely to start or likely to spread, on any day on which there is likely to be a fire of any consequence and present any danger at all. I think it would

have been worth looking at the concept of limited liability if that is what the Government wanted to explore. However, I do not believe that it has done that at this time.

I do not understand why the Government has not explored the possibility of shared liability in cases where a person fails to properly maintain his property, where, for instance, a property owner allows growth right up against buildings, gutters to fill up with leaves or new buildings to be built inappropriately using wrong materials. In such cases a property owner would be partly responsible for damage occasioned by a fire. However, this concept in clause 41 is not true limited liability of any sort. It is really providing for no liability: the trust might be responsible for starting a fire but a property owner must bear the costs, and that is totally inappropriate.

Amendment carried.

The Hon. I. GILFILLAN: I move:

Page 6, lines 3 to 35—Insert new section as follows:

41. The trust is liable in damages for all torts committed by the trust, its agents and employees in connection with the generation, distribution and supply of electricity.

The wording of this proposed new section 41 attempts to spell out clearly the fact that the Democrats believe that the trust should be responsible at law for its negligence. Not only were we opposed to the exemption attempt in the provision put in the Bill that has just been defeated but we also felt that there should be a positive assertion of liability so that there is a firmer base in law for actions against ETSA, due to negligence, to be successful. In the opinion of the Democrats that exists anyway, with the removal of new section 41, but we believe that this amendment spells out ETSA's responsibilities. It is not an act of any vindictiveness against ETSA. We would expect that, in essence, ETSA would want to honour its responsibility and take the effects of negligence. This provision would put the position beyond any doubt.

Amendment negatived.

The Hon. L.H. DAVIS: I move:

Page 6, line 40—Leave out paragraph *(b)* and substitute:

(b) a failure of electricity supply (other than such a failure attributable to the negligence of the trust or an agent or employee of the trust).

As the clause now reads, the trust incurs no civil liability in consequence of cutting off the supply of electricity to any region, area or premises in pursuance of this legislation. The circumstances in which the trust can cut off the supply of electricity to any region, area or premises are set out at page 3 under proposed new section 37 (3). We accept that that is a reasonable provision, but we cannot accept that the trust will incur no civil liability whatsoever as a consequence of the failure of an electricity supply. This involves not only the failure of an electricity supply on a day when conditions of extreme fire danger exist: it also involves the failure of an electricity supply on any day. The trust is seeking total immunity from civil liability for the failure of any electricity supply on any day. Again, the Government is seeking to exempt the trust from liability and responsibility.

We believe that this amendment, which concedes that the trust will incur no civil liability where there is a failure of electricity supply that is not attributable to the negligence of the trust (and we accept that that is all right) should be carried. However, where a failure of electricity is caused by the negligence of the trust or an agent employed by the trust, the trust, like any other corporate body or person in the community, should incur civil liability.

The Hon. PETER DUNN: I raise another argument. I understand that it is illegal for me, if the power supply is cut off, to generate my own power and plug it into my own system without a separate isolation system. Under this provision the trust has the right to turn off the power, and I am quite convinced that many people will want to generate their own power to keep refrigerators, and so on, running. Can the Minister guarantee that the regulation will be amended to allow that to happen because, if that cannot happen, this clause should be deleted?

The Hon. BARBARA WIESE: This issue is separate from that raised by the Hon. Mr Davis in his amendment. I point out to the Committee that the provision that the Hon. Mr Davis seeks to delete has exactly the same effect as has a clause contained in the Gas Bill, which we debated in this Council yesterday and which the honourable member supported. Clause 31 of the Gas Bill provides:

A licensed gas supplier is not liable for loss or damage resulting from cutting off, or failing to supply, gas to any premises.

Yesterday the honourable member supported that concept for the new gas supply company, but today he opposes the very same provision in a Bill relating to the Electricity Trust. That is quite inconsistent. There is no reason why he should pursue this matter under this Bill when he supported that concept regarding the supply of gas. What is the difference between electricity and gas, one might ask? The inclusion of this provision in the Bill simply confirms in legislation what is already a term of the contract to which the trust and the consumer agree when the trust supplies electricity to householders.

I now refer to the ETSA service rules and conditions of supply in the section headed 'Limitation of responsibility', which states that the trust's responsibility goes no further than the supply of electric energy at the service point pursuant to these conditions. The trust is, in particular, not responsible or liable for replacement of consumers fuses, etc., which are contained in Part A. Part B states:

The consequences arising from any failure from any cause whatsoever of any apparatus, instrument, meter or appliance owned or supplied by the trust.

Therefore, the clause which is contained in this legislation simply confirms the agreement that has already been made between a consumer and the trust when electricity is being supplied to a household. For that reason I can see absolutely no reason whatsoever for supporting the amendment moved by the Hon. Mr Davis. I appeal to the Hon. Mr Gilfillan to support the Goverment's provision.

The Hon. I. GILFILLAN: One of the reasons why there may be a slight disarray in the Hon. Mr Davis's consistency of position is that this amendment came late on the scene partly as a consequence of the Australian Democrats concern about new proposed section 42 as it appeared in the Bill. That could easily have unfairly left people who suffered severe degrees of property damage as a result of a power failure without any means of reparation.

I have listened intently to what the Minister has read, and I believe that it is a significant input into assessing this matter and the amendment moved by the Hon. Mr Davis. However, if that is the case and the material that the Minister read out from the agreement is legally binding, it appears that there is no need to have this new section 42, in any case. It would appear to be a duplication.

However, leaving that matter aside and assessing the amendment on its own merits, I think it is reasonable that ETSA should carry responsibility for a failure which is due to its negligence or that of an agent or an employee. I am prepared to hear further argument on this issue.

I am not particularly concerned about whether the Hon. Mr Davis has been consistent in his argument because, quite frankly, that is irrelevant to what we do with this Bill. However, I am interested to hear whether, on deliberation—and I hope it is objective deliberation—the Opposition

believes that, according to the material that the Minister has read out, if this amendment is carried there will be a conflict with the legislation and what I assume is a contract between consumers and the trust. I do not remember signing a piece of paper which locked me into a contract with the trust, but that may well have been so far in the past that I have forgotten it. The Minister may wish to expand on that.

The Hon. BARBARA WIESE: When a consumer applies to the trust for electricity to be connected, the signed application is, in fact, the contract. It refers to the conditions of supply to which I referred earlier.

On the question of negligence it is already the trust's practice to pay compensation to consumers where one of its officers has been negligent. An example of that would be where, perhaps, ETSA officers were sent to a property to disconnect the power because the Bill had not been paid. It has happened that an officer has gone to the wrong house and disconnected the wrong power supply. If the householder then came to the trust to complain about that and claimed damages because food in a freezer had thawed, or whatever the problem was, the trust would in every case admit its responsibility and pay compensation. It is only in those cases where there has been a failure of equipment beyond its control and where a claim might be made by a consumer that the trust would not pay compensation. I hope that that information assists in differentiating between the two cases.

The Hon. I. GILFILLAN: We have not had an opportunity to thoroughly exhaust the consequences of this amendment. I am uneasy about it and therefore do not support it. There is not enough time for us to be sure that the consequences of it do not go further than forseen. The Democrats will not support the amendment.

The Hon. PETER DUNN: I come back to the question that I posed in my second reading contribution, namely, whether it is the intention of the trust to allow people to generate their own electricity because this provision presents a whole new ball game when it comes to the reception of power. In the past it has been expected that power will be generated and supplied 24 hours a day other than in a breakdown. Under this provision ETSA can turn it off when it likes, and that is a totally new ball game because a lot of the equipment today operating in houses and industry requires a 24 hour a day power supply. This is probably one of the most revolutionary provisions in the Bill. In future will I be allowed to plug in my own power unit?

The Hon. BARBARA WIESE: The short answer is 'No'. There is no problem with the honourable member's having his own electricity supply. The problem that would concern the trust would be if he were to connect his electricity supply to the trust's system. If he brings his electricity supply from the generator to the house, which is connected to the trust's supply, he will liven up the trust's system beyond his own property, which would be potentially very dangerous. On a day when the trust might have disconnected the power due to high risk fire danger, if he were to connect his power supply and liven up the trust's system, it could be extremely dangerous for people down the road who believe that the electricity system is dead but in fact find that it is alive because of action the honourable member has taken in activating his own electricity supply. For that reason the trust would be opposed to the action being taken.

The Hon. PETER DUNN: It therefore comes back to what I said last night, namely, that it will be mandatory for ETSA to have some method whereby power cannot be reticulated back down the line. I can understand why it does not want it now. It is significant as many things require power 24 hours a day and on extreme fire days people will want to crank up their own generators. I have one myself and would be prepared to keep running refrigerators, freezers, pumps and that sort of equipment that is necessary on such days. It will be necessary for ETSA to allow an isolation system because under this system it is not guaranteeing a continuous supply in the event of power being cut off. It could be quite disastrous in some instances.

Hospitals have their own power supplies and system of isolation. I can understand why ETSA does not want it normally as when it is working on a line it could cause problems, although it earths them out, anyway. It is unlikely that they would be damaged. The amount of power generated is not likely to run to anybody else's property back through the transformer, but there needs to be something more done about it. It is not a normal breakdown accepted by most people but a deliberate act of turning off the power. It may be off for 24 hours if conditions are bad, and that would cause a high claim on refrigerators, air-conditioners and so on.

The Hon. BARBARA WIESE: There would be absolutely nothing to stop the Hon. Mr Dunn or anybody else with their own generator from plugging in refrigerators and other equipment to it as long as they unplug the appliances from the inbuilt wiring system in the house attached to the ETSA supply. If it were isolated and plugged into his own generators he could keep freezers and other things running when ETSA power supply has been turned off. Alternatively, it would be possible for him to have his own wiring system completely isolated from the trust's supply.

The Hon. Mr Dunn seems to be arguing at cross purposes because, on the one hand, he has argued that turning off the power on extreme fire danger days is desirable and should be considered an alternative to limited liability but, on the other hand, he seems to be arguing against that also. I hope the remarks I have made clarify the situation with respect to private generation of electricity.

Amendment negatived; clause as amended passed.

Remaining clauses (6 and 7), schedule and title passed.

Bill read a third time and passed.

SUMMARY OFFENCES ACT AMENDMENT BILL (1988)

Adjourned debate on second reading.

(Continued from 12 April. Page 3952.)

The Hon. M.B. CAMERON (Leader of the Opposition): The Bill before us creates a situation where people who normally use trucks will be in a very difficult situation. Any person associated with the land would know the problem that is created with overloading. I deny any person who is concerned with the carriage of stock to be able to accurately measure the weight of the vehicle combined with the load upon it. I defy the Hon. Mr Roberts, who comes from a country area, or any member on the other side who knows the problems that people have in judging the weight of stock, to accurately measure the total weight of a vehicle when loaded with stock, particularly if the stock on the vehicle are woolly sheep subjected to rain during the vehicle's journey. The weight that can be added to a vehicle through that natural element can be enormous.

Any person who has a fair minded attitude towards this legislation would no doubt be prepared to accept that the problems created for people in primary industry would be extremely difficult to understand by anybody who is not associated with the land. No doubt the Hon. Mr Dunn has drawn attention to the problems created in the northern

areas of the State, because stock are loaded in situations where there are no weighbridges, no accurate measurements of the weight of stock, so it has to be done by the judgment of people quite often other than the landowner. To then penalise people to the point required under this Bill is quite unfair.

I say that before long we will have to look at some other form of measuring weights in relation to people who transport stock. Ultimately, this measurement of weights will have to go to volumetric measurement because of the problems that arise. One only has to visit a local market to know that judging the weight of stock is difficult indeed because, when one is selling stock or sending it to market, first there is the seller's judgment; secondly, a stock agent's judgment; and, thirdly, the buyers put their own judgment upon it. Most times they are wrong, because they do not pay enough for it. That is how the farmers feel and it creates enormous difficulties.

I suggest that the Government reconsider this matter and perhaps it should take into account some of the problems that are created by this legislation. The other point that has been raised in this place is that the majority of overloading offences at the lower level are not committed in a deliberate sense; rather, it is accidental overloading. It would be unfair, and in many cases unwarranted, to create an offence for this situation.

The Hon. Mr Dunn, who is an expert in this area because of his very close association with the northern areas of the State, would understand that. I suggest that, if this legislation were passed, we would make it extremely difficult for country people (especially those in the grain areas of the State) who add wealth to this country and who are the real producers in terms of creating export income. Those people will again be placed in a situation of paying unwarranted, unnecessary costs and that is unfortunate, because they are not deliberately breaking the law. I ask the Government to reconsider its attitude about this Bill and perhaps withdraw it. I ask the Government to perhaps consider taking the Bill to the people who will be most affected, that is, rural communities who will be unnecessarily penalised, and seek their opinions. In many cases, those rural people are in very difficult situations in relation to incomes and costs. I suggest to the Government that it would be better to withdraw this Bill, have it redrafted and again put it through the process of consultation with the people who will be affected. Eventually, if the Government still feels that the Bill is justified, it can bring it back during the next session when perhaps we can reconsider it based on information that will then be available to the Government. As a result of consultation between Opposition members and various people, I do not believe that all people who will be affected have been properly consulted. I suggest that the Government withdraw the Bill.

The Hon. PETER DUNN: I distinctly remember last year asking a question about the problem relating to overloading of stock in particular. I think that this Bill deals generally with motor transport matters, but in particular I wish to highlight the problem with the loading of stock. I refer to transporting stock over long distances. For instance, I highlighted the case last year of a station on the Birdsville Track.

The cattle were loaded there and, by the time the truck got to Port Augusta, it was raining; when it reached Bolivar the cattle were very wet. The truck had already passed the weighbridge at Bolivar when the driver was asked to return to it. The islands in the middle of the sealed highway made it difficult for the driver to turn so he was told to complete the turn on a side road but, in doing so, the vehicle became bogged in a very soft, wet patch. The truck tilted sharply, causing the cattle to fall on top of one another, and a number suffocated. The inspectors then left the scene. The owner had to go into town to obtain another truck to recover his vehicle.

Eventually the truck was weighed and was found to be overweight by a small amount. On reaching the abattoir five hours later, it was found that three beasts were dead and others had suffered considerable bruising, which meant that at market the next day the cattle brought less money than they should have. That must be avoided as much as possible, and the expiation of these overloading fines is probably a good idea. However, it is not the answer to the problem. It is probably an easy way for the Government to raise money, but it needs closer consideration with respect to the cartage of livestock, grain, gravel and general cargo. A weighbridge is nearly always close at hand so reasonably accurate weights are relatively easy to ascertain.

The Bill has some good features, but not enough. The sooner volumetric loading is introduced, particularly for livestock, the better the industry will be. Volumetric loading is not widely understood. Each vehicle has a certain volume into which animals can be loaded. When it is full, it is reasonable to assume that that is about its maximum weight. Even if it rained and the load went overweight, there would be no charge. Indeed, it is unlikely that the load would be overweight because the volume is such that it would probably weigh in under the maximum or gross combination weight. The Government should make a commitment about what it intends to do with this measure.

The Hon. C.J. SUMNER (Attorney-General): The Hon. Mr Griffin believes that the police should have ultimate responsibility even for the enforcement activities of Highways Department inspectors. This is not an acceptable suggestion. The Commissioner of Police and the Commissioner of Highways commented on the Bill as it now is and found it satisfactory. The Commissioner of Police should not be required to supervise inspectors for whom he has no statutory or other responsibility. They should have autonomy in their respective administrative spheres. The Hon. Mr Griffin's suggestion is an unnecessary response. If Highways Department inspectors are expected to carry out various duties under the Road Traffic Act now under the supervision of the Commissioner of Highways, why cannot they be trusted to administer the TIN system fairly and impartially?

There seems to be nothing to that point. There is no need to include in the Bill a provision specifically limiting the scheme to overloads of up to 2 tonnes. That will be done in the regulations where various thresholds in respect to speed and so on are already incorporated. Overloads should be dealt with in this way and not as an exception to what occurs at present with respect to speeds.

The Hon. Mr Griffin should note that what is envisaged will be limited entirely and strictly to two overload provisions—that is all that is involved—of the Road Traffic Act 1961. The proposed expiation fee in respect to section 147 (2), excess mass on an axle, is $40 for every 500 kg of excess mass up to 2 tonnes; and for section 147 (2) *(a)*, excess mass carried on two or more axles, the proposed expiation fee is $40 for every 500 kg of excess mass up to 2 tonnes. So, in each case the maximum expiation fee that could become payable is $160. The scheme will not be extended to offences under sections 152, 153, 154 and 155 of the Road Traffic Act—those sections create offences which are considered too serious to warrant expiation—nor will it apply to any other overload provisions contained in section 147.

The Hon. Mr Griffin enumerated some complaints about the way that the Highways Department administers overload offences. I point out that there will always be complaints from people whose operations are restricted by regulatory law. All specific complaints against highways inspectors, that is, complaints which are sufficiently specific to be capable of investigation, are investigated, but very few are found to have any real substance. The great majority of complaints against highways inspectors have their source in the restrictions imposed by the law rather than in the conduct of the people whose duty it is to enforce them. The Hon. Mr Griffin explained that the view of the Professional Transport Drivers Association is that most overloads are in fact mistakes and are not deliberate.

The Hon. K.T. Griffin: Up to 2 tonnes.

The Hon. C.J. SUMNER: Overloads of up to 2 tonnes may in some cases be due to mistakes or careless overloading, but nevertheless they cause road damage. In any case the issue is more relevant to the provisions of the Road Traffic Act than the Bill under consideration. In other words, that matter deals with substantive law, but this Bill does not deal with substantive law. The Hon. Mr Griffin asked whether the expiable offence is fixed in relation to the permitted weight on a legally fixed load basis. I point out that, with regard to the standard articulated vehicle fitted with a tandem drive and tri-axle trailer, the Highways Department endeavours, usually successfully, to satisfy courts that a penalty related to the weight in excess of any concessional permit or notice is more appropriate than the penalty prescribed for the weight in excess of the statutory limit. The department intends to employ this approach towards expiation fees.

The Hon. K.T. Griffin: Shouldn't that be specified in the legislation?

The Hon. C.J. SUMNER: The honourable member may want to consider that point, but that is the intention of the department as I have been advised. The Hon. Mr Griffin asked at what point the overload becomes subject to prosecution. This question has been partly answered already. It is a matter of law that an offender is charged with the excess over the statutory limit, and the department then attempts to have the court reduce the charge to the excess over any concessional permit. This is usually successful, but it is important to realise that it is the court's discretion and not the department's. A review of the Road Traffic Act weight limits is currently taking place with the object of, among other things, correcting this situation.

The Hon. Mr Griffin also asked about volumetric loadings and changes in the specific gravity of liquids, etc. These issues are not directly related to the Bill under discussion; they reside in the Road Traffic Act. The question of volumetric loading for livestock has been examined by a Government working party and a report was recently forwarded to the Minister of Transport for consideration.

In general terms this Bill does not deal with issues relating to the substantive law of overloading but merely provides for the expiation of but two offences to a maximum of $160 in each case. On that basis I would ask members at least to support the second reading. If there are any amendments, obviously we will have to consider them in Committee.

Bill read a second time.

CORRECTIONAL SERVICES ACT AMENDMENT BILL (No. 2)

Adjourned debate on second reading.

(Continued from 6 April. Page 3800.)

The Hon. DIANA LAIDLAW: The Liberal Party supports the second reading of this Bill and, as I shall identify during the course of my remarks, we intend to oppose one provision, namely, clause 3, and we have questions on other clauses. The Bill seeks to amend provisions of the Correctional Services Act dealing with the segregation of prisoners and the interviewing of prisoners by the Parole Board. Currently, section 36 of the principal Act provides a range of circumstances under which a prisoner who is alleged to have committed an offence or has been convicted of an offence can be segregated from other prisoners for various lengths of time. This provision was incorporated in the Act in 1982 when the Act was revised. It was amended again in 1984 and in 1985, and the Government now seeks to amend this section for the fourth time in six years.

The proposed amendments do not seek to alter the segregation provisions for prisoners who are alleged to have committed an offence. The amendments are confined to prisoners who have been convicted of an offence and, in respect of such prisoners, the Government is seeking to provide additional grounds upon which they may be segregated from other prisoners. At present the grounds upon which a permanent head may direct that a prisoner be segregated are, first, that the welfare of a prisoner requires that he or she be segregated or, secondly, that a prisoner is likely to injure another person or unduly harass another prisoner.

It is proposed that these two grounds be retained and that the following two grounds be added: first, that a prisoner is likely to attempt to escape from custody or, secondly, that a prisoner constitutes in some other way a threat to the security of the correctional institution or to good order and discipline within the institution. The Government seeks to strengthen this provision yet again by extending from a period not exceeding seven days to a period not exceeding 14 days the time for which a prisoner may be segregated and detained.

In addition, there is a provision that, where it is considered by an appropriate authority that the period of segregation and detention should be extended further, the authority may do so with the approval of a visiting tribunal for a further period not exceeding two months. This period is an extension of the current provision of a period not exceeding one month. The Government argues and the Liberal Party agrees that, following a Supreme Court ruling last year that a prisoner had been unlawfully segregated, there is now a need to define more clearly by way of specific provisions the grounds upon which segregation should be available to prison management.

[*Midnight*]

I do not intend this evening, at midnight, to get into any argument over the contrast between the tougher measures proposed in this Bill and the Government's more lenient and relaxed style of prison management over the past five years. There is no doubt, however, that for some time the community at large has been demanding more concerted action from law makers, from ourselves and from the courts. They are calling for more discipline to be exercised against people who break the law, against those people who infringe the civil liberties and rights of law-abiding citizens, and against those who resort to violence without provocation.

Those comprising the silent majority in South Australia are certainly calling for action to ensure that they are able to lead their daily lives in a more peaceful environment, without fear for their personal safety—and for good reason. The community at large is demanding the maintenance of law and order in this State and the restoration of discipline and standards, not only in our neighbourhoods but also in

our prisons, and I believe that this Bill reflects, in part, those wider community concerns.

In making such observations I am aware that the Offenders Aid and Rehabilitation Services of S.A. organisation believes that the legislation is regressive and that the powers in the Act at present are sufficient for prison administrators to exercise sound management practices. While the Liberal Party does not accept this perspective, we do share the concerns of OARS, and we have reservations about the use and misuse of the power to segregate prisoners. In his second reading—

The Hon. J.R. Cornwall interjecting:

The Hon. DIANA LAIDLAW: Don't let us have a—

The Hon. J.R. Cornwall interjecting:

The Hon. DIANA LAIDLAW: Oh, you are a stupid little man. Has your voice just started to break, has it?

The Hon. J.R. CORNWALL: On a point of order, Ms President, I ask the honourable member, who just referred to me as a stupid little man, to withdraw and apologise.

The Hon. DIANA LAIDLAW: Why—because it was accurate? Why should I withdraw and apologise?

The Hon. R.I. Lucas: I couldn't understand that, John. Would you say it again?

The PRESIDENT: Order!

The Hon. J.R. CORNWALL: I am perfectly happy to say it again. The Hon. Ms Laidlaw has just referred to me as a stupid little man—which will be on the *Hansard* record—and I ask that she withdraw and apologise.

The Hon. DIANA LAIDLAW: I withdraw and apologise—

The Hon. J.R. CORNWALL: The 'stupid' bit I find objectionable; the 'little' bit I don't find terribly objectionable; the 'man' bit I do not find objectionable; but I certainly find 'stupid' objectionable.

The PRESIDENT: The Minister has made his point of order.

The Hon. DIANA LAIDLAW: Ms President, it may be wise if the Minister does drink a little more water. I would suggest that I made that remark, Ms President, and I have withdrawn and apologised. But I suggest that I made that remark because the Minister was being so sexist in his references to me.

The Hon. J.R. CORNWALL: This puts her right in the category of Mr Lucas.

The PRESIDENT: Order!

Members interjecting:

The Hon. J.R. CORNWALL: This is really quite extraordinary.

The PRESIDENT: Is the Minister raising a point of order?

The Hon. J.R. CORNWALL: I am raising a point of order. I am asking that the Hon. Ms Laidlaw withdraw and apologise.

The Hon. Diana Laidlaw: I did.

The Hon. J.R. CORNWALL: And in doing so she said that it might be wise or desirable or something that I drink water. There was a very clear inference in that regarding sobriety. There is no question about that. So, they have broken yet another law.

The PRESIDENT: There is no point of order in that.

The Hon. J.R. CORNWALL: Nevertheless, the disgraceful sort of conduct—

The PRESIDENT: I ask the honourable Minister to resume his seat.

The Hon. J.R. Cornwall interjecting:

The PRESIDENT: I ask the honourable Minister to resume his seat. The Hon. Ms Laidlaw has withdrawn and apologised and has the call for her speech.

The Hon. DIANA LAIDLAW: Thank you, Ms President. In fact, we were making sound progress on the Bill until the Minister entered the Chamber. Before the Minister reflected in sexist fashion on my contribution to this debate I was making the point that in the second reading speech the Attorney stated:

> The Government has always been very much aware of the need to ensure that the power—

The Hon. J.R. Cornwall interjecting:

The Hon. DIANA LAIDLAW: If you do not wish to listen, go outside, but I have something to say.

The PRESIDENT: I would ask the Hon. Ms Laidlaw to address her remarks to the Chair.

Members interjecting:

The PRESIDENT: Order! The Hon. Ms Laidlaw has the call.

The Hon. J.R. Cornwall interjecting:

The Hon. DIANA LAIDLAW: Have you finished?

The PRESIDENT: The Hon. Ms Laidlaw, you have the call.

The Hon. DIANA LAIDLAW: Yes, I recognise that.

The PRESIDENT: If you do not wish to speak, will you resume your seat.

The Hon. DIANA LAIDLAW: I have plenty to say; it is just a pity that such an important issue is not of importance to members opposite. In his second reading speech the Attorney stated:

> The Government has always been very much aware of the need to ensure that the power of segregation is not abused.

The Attorney went on:

> Currently subsections (4) and (5) of section 36 provide that any extension of the initial period of segregation by the permanent head is subject to a power of 'veto' by a visiting tribunal appointed under section 17 of the Act and, before making a decision, the tribunal must grant the prisoner the opportunity of making such representations as the prisoner wishes. The Bill proposes further statutory safeguards, first, by removing from the permanent head the power of extending segregation in those cases where a special segregation review committee has been set up for the prison . . .
>
> The second safeguard is that any direction given concerning segregation must be in writing, must specify the grounds upon which it is given, and must be served personally on the prisoner to whom it relates within 24 hours of the direction being given.

OARS contends that the composition of the proposed new Segregation Review Committee is questionable. While the composition of the committee is not defined in the Bill, the Attorney-General's second reading speech noted, in respect to Yatala Labour Prison, that the proposed committee will be chaired by a senior officer of the Prisoner Assessment Committee and include other members such as the Manager of the prison or his nominee and one or more Assistant Chief Correctional Officers and any other persons nominated by the Manager.

The fact that the committee is to be made up entirely of prison or correctional services staff does raise doubts about the potential effectiveness of the committee as a genuine review body. It raises doubts about whether justice will be seen to be done. Are you on your feet for a purpose?

The PRESIDENT: You have the floor, Ms Laidlaw.

The Hon. DIANA LAIDLAW: OARS representatives have stated in representations to the Liberal Party that:

> Prisoners are powerless and this Bill makes them even more vulnerable.

For its part the Liberal Party questions why only staff or nominees of prison or correctional services staff will be members of this committee.

Clause 3 seeks to limit the Parole Board's statutory obligation concerning the interviewing of prisoners. Currently, any or all prisoners can seek an interview by the board, although the board is not obliged to interview a prisoner on his or her request more than once a year. There are

between 800 and 890 prisoners in South Australia's gaols at any one time, all of whom by law currently have access to the Parole Board. In 1986-87 the board interviewed 133 prisoners and parolees. Apparently the board, which is part-time, is concerned about the potential for abuse by prisoners of the provision whereby they can request an interview.

It believes that the rate of interviews of the past year (133) is likely to escalate in the future and, if this were to eventuate, the board would be unable to fulfil its other obligations under the Act concerning mandatory interviews pursuant to section 64 (2) of the Act. Therefore, the Bill proposes to limit the number of offenders who may have access once a year to the Parole Board for interview.

The Bill proposes to limit the right to prescribed classes of prisoners, those classes of prisoners being persons who are serving a sentence of life imprisonment, a sentence of indeterminate duration at the Governor's pleasure, or a sentence of imprisonment for a term of more than one year in respect of which a non-parole period has not been fixed. The Liberal Party believes that this is unacceptable.

The Attorney-General has not provided a satisfactory explanation about why we should deny prisoners once a year access to the Parole Board. We believe that it is contrary to the United Nations Charter of Human Rights and to the steadfast views that have been expounded in this place by the Government members since 1982. We also believe that it is an unnecessary amendment because it appears to ignore the fact that, since the passage of the amendments to the Parole Act last year, the Parole Board is now able to set conditions only and is no longer responsible for the term of imprisonment and parole.

Prisoners argue in these circumstances—and I believe justifiably so—that it is now no longer necessary for all prisoners to have access to the board. Therefore, fears that all 800 or 890 prisoners may do so is exaggerated and is a baseless fabrication. In addition, prisoners argue that the conditions that have been set over the past year by the Parole Board are renowned amongst prisoners as being very restrictive. This perception—and I am not sure whether it is merely a perception or whether it is a reality—in the prisoner's mind is not encouraging the deliberate misuse of the current right for prisoners to seek an interview before the Parole Board.

If there are isolated cases of such abuse of this right the Liberal Party does not accept that such acts justify the wholesale denial of such a right to all but a select group of prescribed classes of prisoners. Accordingly, and as indicated earlier, we intend to oppose clause 3.

In regard to clause 4, initially when the second reading explanation was incorporated in *Hansard* it contained no reference to this clause. I assumed that clause 4 may have been removed from the Bill and wondered if that was so because of OARS representations, which identified the provision as a dangerous one in its view. Upon questioning of the Minister in another place, I was advised that the second reading explanation that was incorporated in *Hansard* two weeks ago was incorrect, and I have now been provided with a revised copy which indicates that clause 4 provides that a warrant issued by the Parole Board for the apprehension of a parolee authorises the detention of a parolee in custody pending his or her attendance before the board.

OARS believes that this is a dangerous provision. Certainly it is alarmed that no time limit is established on the period of detention in respect to a parolee in custody. It is concerned that parolees in such circumstances could be held for any length of time. Its concerns are reinforced because no explanation has been provided of the Government's concerns with the present situation or on what is wrong with the current provision.

I am not sure whether there have been major or minor breaches of procedures to date, and certainly I am not sure whether this provision for detention in custody will in future apply to both major and minor breaches of parole. We certainly have a range of questions on clause 4. We intend to oppose clause 3, but I indicate that otherwise the Opposition supports the second reading of the Bill.

Bill read a second time.

MOTOR VEHICLES ACT AMENDMENT BILL (1988)

In Committee.

Clause 1—'Short title.'

The Hon. C.J. SUMNER: I will use this opportunity to reply to some questions raised by the Hon. Mr Griffin. The honourable member has queried whether the case as cited by him where a vehicle was parked on the side of the road would be covered by the statutory scheme. That situation outlined by the honourable member concerns a car which was left at the side of the road, perhaps because it had broken down, and whether that would constitute a process of parking the vehicle. If it did not, the honourable member argued that it would not be covered by the third party compulsory scheme, and that would be an unfair situation.

I can say that the Government's intention at the time the legislation was enacted was that the situation as put forward by the Hon. Mr Griffin could be covered. The term 'parking' was used in the sense of placing or leaving a vehicle. It was not restricted to the act of manoeuvring into a park. The matter has been discussed with Parliamentary Counsel, who is of the view that the provision would be interpreted in the wider sense intended by the Government. Further, the matter has been discussed with officers of the State Government Insurance Commission. At this stage there does not appear to be a problem with the interpretation regarding cars left on the side of the roadway.

However, I accept that the Hon. Mr Griffin's point does need to be perhaps clarified and, if it can be put beyond doubt, then it ought to be. It is on this basis that I have placed on file an amendment to the appropriate clause which we can discuss more fully when we reach it. This would ensure that cars such as those broken down in the middle of a roadway could be covered, provided negligence could be proven and, as far as my amendment is concerned, provided a collision is involved. Indeed, the amendment which I will move would subsume the amendment that was in the original Bill dealing with the opening and closing of doors as it has been subsumed in the general proposition that a collision should be covered. However, I understand, from what the Hon. Mr Griffin will say shortly, that there may still be some areas that we would want to cover which are still not covered. I will deal with those in the appropriate clause.

With respect to the honourable member's general comments on the more limited coverage offered by the scheme since the 1986 amendments, I have recently held discussions with the Insurance Council of Australia and the State Government Insurance Commission. The discussions were held with a view to ensuring that matters excluded from the statutory scheme could be subject to some form of insurance coverage. I am awaiting final confirmation of arrangements made in this area, and I am hopeful that suitable arrangements will be made. It is anticipated that these arrangements will resolve many of the problems experienced by groups such as the Earthmoving Contractors Association and the Bus and Coach Association, and so on. Once this matter is finalised—and I hope that it will be—it is proposed that an

advertising campaign will be held advising of the coverage under the compulsory third party scheme and informing a means of coverage to pick up matters excluded from the statutory scheme.

The matter raised by the Hon. Mr Griffin regarding the issue of a notice with registration renewal notices will be considered more fully in this context. Options of ensuring that information about the cover is widely disseminated will be discussed with SGIC and the Department of Transport.

Clause passed.

Clause 2 passed.

Clause 3—'Interpretation.'

The Hon. K.T. GRIFFIN: I do not intend to move the amendment. I notice that the Attorney-General also has an amendment on file. I will make some general observations about this clause. I appreciate that the Attorney-General has taken some advice on the best way to cover a possible gap to which I referred when I spoke at the second reading stage. I appreciate that the amendment he has placed on file relating to coverage where injury arises out of a collision with a vehicle when it is stationary may be a way of ensuring that the gap is closed. However, it seems that some areas may not be covered by that. One is where the vehicle is stationary on the roadway, and another vehicle swerves suddenly to avoid it, if that stationary vehicle is in a position that might be regarded as involving negligence on the part of the person who left it there. There may not be a collision with that vehicle, but nevertheless that vehicle may roll over, or hit a tree or another oncoming vehicle and persons may thereby suffer injury as a result of the first vehicle being stationary on the roadway.

I do not think that that situation is covered by a reference only to injury arising from a collision with a vehicle when stationary. It may be that the answer is to leave paragraph *(b)* in section 99 (3), that is, the parking of the vehicle, and also add a new paragraph which deals with a collision with a vehicle when stationary. I would have thought that in those circumstances that would cover the field.

It is not an easy issue to resolve, because whenever one endeavours to make some provision with words there will always be a variety of interpretations which can only ultimately be resolved by the court. However, it is important for us to endeavour to find appropriate wording which will ensure that not only is the act of parking covered, but also the vehicle when parked and the vehicle when left in a stationary position which might not have arisen from the act of parking, but, rather, perhaps from a breakdown. I am trying to ensure that those areas are adequately covered.

The Opposition does not intend to hold up the passage of the Bill. It is just a matter of trying to resolve the issue to everyone's satisfaction. Perhaps it will be possible to give some consideration with Parliamentary Counsel overnight to an appropriate form of words to ensure that the gaps are plugged.

The Hon. C.J. SUMNER: It appears that for some time there has not been a major difference on the policy that we are trying to implement, but there has been difficulty in achieving an appropriate form of words.

Progress reported; Committee to sit again.

TOBACCO PRODUCTS CONTROL ACT AMENDMENT BILL

Returned from the House of Assembly with amendments.

CRIMINAL LAW (SENTENCING) BILL

Returned from the House of Assembly with amendments.

STATUTES AMENDMENT AND REPEAL (SENTENCING) BILL

Returned from the House of Assembly with amendments.

SEXUAL REASSIGNMENT BILL

Returned from the House of Assembly with amendments.

SUPERANNUATION BILL

The House of Assembly intimated that it had agreed to the Legislative Council's amendments.

HAIRDRESSERS BILL

Returned from the House of Assembly without amendment.

CREMATION ACT AMENDMENT BILL

Returned from the House of Assembly without amendment.

ADJOURNMENT

At 12.34 a.m. the Council adjourned until Thursday 14 April at 2.15 p.m.