LEGISLATIVE COUNCIL

Wednesday 7 November 1990

The PRESIDENT (Hon. G.L. Bruce) took the Chair at 2.15 p.m. and read prayers.

QUESTIONS

SENTENCING OPTIONS

The Hon. K.T. GRIFFIN: My questions are to the Attorney-General, on the subject of sentencing options:

1. Does the Government intend to introduce sentencing guidelines which expressly remove imprisonment as a sentencing option for a wide range of offences, as recommended by the Executive Director of the Department of Correctional Services in a report, dated 26 October 1990, to the Government Agency Review Group as one means of reducing departmental running costs?

2. If it does, for what offences is imprisonment likely to be removed as a sentencing option?

The Hon. C.J. SUMNER: That matter has not been considered by the Government.

PRISONERS' RIGHTS

The Hon. J.C. IRWIN: I seek leave to make a brief explanation before asking the Attorney-General a question about prisoners' rights.

Leave granted.

The Hon. J.C. IRWIN: The Department of Correctional Services report to the Government Agency Review Group suggests that a prisoner's right to appear personally in court may be removed as part of its cost cutting proposals. It appears that this proposal may even have been initiated by the Court Services Department. In referring to so-called 'teleconferencing' as a means to allow inmates to be represented in court, the department says 'savings will not occur if the prisoner's right to be present personally in court is maintained'. My questions to the Minister are as follows:

1. Does the Attorney-General support removal of the right of prisoners to appear personally in court when they are defendants?

2. What safeguards are likely to be provided against abuse and what rights are proposed with respect to legal representation?

The Hon. C.J. SUMNER: That matter has not yet been considered by the Government.

GOVERNMENT TRAVEL ARRANGEMENTS

The Hon. R.I. LUCAS: I seek leave to make an explanation before asking the Minister of Tourism a question about Government travel arrangements.

Leave granted.

The Hon. R.I. LUCAS: A submission by the Executive Director of the Department of Correctional Services to the Government Agency Review Group, which is overseeing cuts in departmental expenditure, says:

> A number of unnecessary costs and inefficiencies are imposed by requirements or policies of other agencies. In each case they affect the entire Public Service. As such, their rectification requires a change of policy or legislation by the Government. They include: ... the compulsion to make airline bookings through the State Travel Centre. This imposes administrative inefficiencies as well as unnecessary travel costs upon agencies.

At the Federal level, the Federal Government put the travelling requirements of the Federal Government out to tender about two years ago, with substantial savings to the Government resulting from that, running into millions of dollars. At the State level, what the Department of Correctional Services states about present Government policy is also a view reflected in some other areas of the Public Service.

First, does the Government intend to change its travel policy to achieve savings and accommodate the concerns of departments such as the Correctional Services Department? Secondly—and I accept that the Minister may need to take this question on notice—what is the expected current year cost and what was the cost in 1989-90 of intrastate, interstate and overseas air travel arranged by Government departments and agencies through the South Australian Government Travel Centre? At what discount, if any, was such travel supplied by the centre?

The Hon. BARBARA WIESE: As the honourable member suggested, I will have to seek a report to be able to answer the second question. As to the first question, it is not the Government's intention to cease arranging Government travel through the South Australian Government Travel Centre. This decision has been taken following the most recent review of this matter—and a number of reviews have been undertaken into this issue during the past decade. The most recent took place just a few months ago. That was a review—

The Hon. R.I. Lucas: Who did it?

The Hon. BARBARA WIESE: I am about to tell you. The review was conducted by officers of Tourism South Australia in conjunction with the Office of the Government Management Board. It came about as a result of criticisms along the lines that the honourable member has outlined from various Government agencies, which believed that they would be able to cut costs if they were able to book travel through other private sector organisations.

This matter has been studied very closely. Although the initial proposition is an attractive one, and in the past individuals may have been able to achieve discounts by making bookings through other sources, when the whole picture is taken into account, considering the advantages that accrue as a result of the South Australian Government having its own travel agency and the benefits that flow to the Government through discounts and the benefits that come from tourism promotion being conducted through a fully accredited travel agency in its own right, the balance sheet is a very different one overall.

The decision has been taken, therefore, that the existing arrangements will continue; that the opportunity will be presented in future for the South Australian Government Travel Centre to provide discounted travel to Government agencies when they book through the centre, something which has not always been available in the past. The new arrangements will be reviewed again in approximately 12 months to ensure that the situation is as we anticipate it will be after a 12-month period. But, certainly, it is my view, based on the information that has been collected, that on balance the advantages to Government from having a fully accredited travel agency in our own right outweigh some of the disadvantages that may accrue to individual agencies.

On the question of the Federal Government arrangements, as I understand it, the anticipated savings that were to accrue to the Federal Government through the arrangement that was entered into, whereby tenders were called and Government travel was handed over to the private sector, have not, in fact, been as forthcoming as was previously expected. So, these things are much more compli-

cated than simply looking at the cost of a ticket. As I said, I understand that the Federal Government found that the arrangement was not as good as it expected it would be when it put out its travel arrangements to the private sector. In fact, the Federal Government has found that the service provided by the private sector has not been as good as that which was enjoyed with Government agencies prior to that arrangement taking place. So, as I say, at State level, we will continue with the arrangements that we have, but it will be reviewed in 12 months.

The Hon. R.I. LUCAS: As a supplementary question, what is the expected level of discount to which the Minister referred and which might be offered? Secondly, is the Minister prepared to table a copy of the review conducted by Government officers to which the Minister referred?

The Hon. BARBARA WIESE: I expect that the discounting arrangements would vary from time to time and would relate specifically to individual travel arrangements being made and opportunities that arise within the travel industry itself. But, if there is further information on that matter and a more detailed study has been undertaken on it which would be of help to the honourable member, I will certainly provide additional information.

As to the report itself, that is a matter which I will have to consider. It may not be a report that is appropriate for public release but I will also take that question on notice.

ROYAL ADELAIDE HOSPITAL

The Hon I. GILFILLAN: I seek leave to make an explanation before asking the Minister of Tourism, representing the Minister of Health, a question relating to hospital transfers to the Royal Adelaide Hospital.

Leave granted.

The Hon. I. GILFILLAN: My question relates to the transfer on Tuesday 30 October of a 74-year-old woman from Peterborough Hospital to the Royal Adelaide Hospital in an ambulance. The transfer had been arranged by telephone by the woman's doctor in Peterborough on Monday 29 October, the day before, after blood tests had shown her blood haemoglobin and platelet levels were very low. The ambulance crew was warned on its departure from Peterborough of the possibility that the patient could suffer internal bleeding during the trip and require blood on arrival at the Royal Adelaide Hospital.

The woman, accompanied by her daughter, arrived at the Royal Adelaide Hospital at approximately midday. Blood samples were then taken in the casualty and admissions section of the hospital. At 2 p.m., two hours later, while still waiting in the casualty and admissions area, the patient felt thirsty. Water was fetched and a doctor helped the daughter to put her mother's trolley into a sitting position. As he left, the patient fainted.

The daughter told me that nothing was done then and no more attention was paid to her mother by staff until after 4 p.m.—another two hours later. During that time she observed that casualty was not too busy, with people arriving, being treated and leaving again.

Out of concern about the time delay and her mother's condition, the daughter voiced her concern to a doctor in the casualty section that her mother might die before something happened. The doctor's reply was that it did happen, and that it was not unusual for some people to wait 16 hours for attention. The daughter, extremely worried by that time, rang their doctor in Peterborough, who rang the Royal Adelaide Hospital, and not long after that a drip was installed in the patient. It was after 5 p.m. when the patient was taken to a ward. Five days later, on Sunday 4 November, the patient died. My questions to the Minister are:

1. Does the Minister consider a waiting time of five hours for admission for an ill, elderly patient transferring from another hospital excessive?

2. Will the Minister inquire about the details of transferring patients having to wait in casualty for many hours before being admitted?

3. Will the Minister inquire why the RAH was not ready to admit the transferring patient, on arrival, given that at least 16 hours notice of her arrival was given?

4. Will the Minister inquire whether there have been instances of transferring patients, as the doctor had indicated, actually dying while waiting for attention on arrival at the RAH? I will make the patient's identity known to the Minister upon request.

The Hon. BARBARA WIESE: I will be happy to refer the honourable member's questions to my colleague in another place, and I am sure that he would like to have the details of the person involved in order that an adequate investigation can be made into the circumstances.

STATE TRANSPORT AUTHORITY

The Hon. DIANA LAIDLAW: I seek leave to make a brief explanation before asking the Minister of Local Government, representing the Minister of Transport, a question on the subject of STA industrial action.

Leave granted.

The Hon. DIANA LAIDLAW: This morning, train passengers at the Adelaide Railway Station were handed notices—I have a copy of such a notice—by railway workers highlighting the strong opposition by members of the Australian Railways Union to STA's plans to eliminate assistant guards, or collectors, introduce broken shifts and close suburban stations. The notice states:

> Railway workers do not want to inconvenience passengers but we cannot stand back whilst the Government and STA makes an economic decision that will decrease jobs, security and services on trains.

It is a fact that STA is the only metropolitan rail authority in Australia that is forecasting a fall in passenger numbers this decade. Trains currently provide only 18 per cent of STA's services. Yet the report issued by the Railway Industry Council in May this year identified the STA as forecasting a net decline in passenger numbers of 10 per cent to the year 1996-97, while all other Australian authorities within our capital cities are anticipating growth in patronage over the same period, varying from 30 per cent in Melbourne to 74 per cent in Brisbane.

In relation to these negative forecasts by STA, I suspect, as do members of the ARU, that the STA has consciously adopted Australian National's past practice of running down railway services, leading to a decline in passenger numbers and an excuse to close down such services.

Certainly my conversations with train passengers suggest that people are boycotting train services because current services are not reliable or clean; that stations and pedestrian subways are forbidding to use, particularly at night, poorly lit, dirty, smelly and covered in graffiti; and that people are anxious about issues of personal safety and security. My questions to the Minister are:

1. Have studies been undertaken by the STA to determine why people are opting to use other transport options in preference to train services? If not, why not and, if so, what are the conclusions of such studies?

The Hon. C.J. Sumner: What about you?

The Hon. DIANA LAIDLAW: That is my research, Attorney.

The Hon. C.J. Sumner interjecting:

The Hon. DIANA LAIDLAW: Well, I have been; that is why I have been able to find out this information.

Members interjecting:

The PRESIDENT: Order!

The Hon. DIANA LAIDLAW: I have been catching trains to see why. I have been discussing this matter with people, and that is their observation.

Members interjecting:

The PRESIDENT: Order!

The Hon. T. Crothers interjecting:

The Hon. DIANA LAIDLAW: Well, it is hard not to express an opinion when there is an interjection from the Attorney.

The Hon. L.H. Davis interjecting:

The Hon. DIANA LAIDLAW: I do not have to, but he was being provocative, and I felt inclined to. My questions continue:

2. Why has the STA refused to launch a positive public relations campaign promoting the benefits of rail travel, as recommended in the Fielding report two years ago?

3. What is the rationale for moving to eliminate assistant guards or collectors and what is the STA's assessment of:

(a) the impact of this move on the important issues of safety for the travelling public and efforts to minimise vandalism and graffiti in trains, on stations and subways? and

(b) the loss of revenue, as it is estimated that guards would find it impossible to collect fares and check tickets with three, four, five, six and seven carriages as the STA proposes?

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

MULTICULTURAL AND ETHNIC AFFAIRS COMMISSION

The Hon. J.F. STEFANI: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister of Ethnic Affairs, a question on the functions of the Multicultural and Ethnic Affairs Commission.

Leave granted.

The Hon. J.F. STEFANI: In August 1989, the Bannon Government introduced amendments to the South Australian Ethnic Affairs Commission Act 1980. These amendments included new functions for the commission. Section 12 (2) (*e*) provides that the commission develop, in conjunction with other public authorities, immigration and settlement strategies designed to support and complement the State's economic development plan and to realise the potential and meet the needs of individual immigrants. My questions are:

1. To what extent has the commission been able to develop settlement strategies to support and complement the State's economic development?

2. Which public authorities have participated in this process?

3. What are the details of the plans and strategies which have been developed?

4. Has the Minister given the appropriate ministerial support to the commission to enable it to undertake this function?

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

ABORIGINAL APPRENTICESHIP TRAINING SCHEMES

The Hon. I. GILFILLAN: I seek leave to make a brief explanation before asking the Minister of Local Government, representing the Minister of Aboriginal Affairs, a question relating to the Aboriginal apprenticeship training schemes.

Leave granted.

The Hon. I. GILFILLAN: I ask this question following a meeting I had last week with the manager of the Statewide group training scheme—the only scheme in South Australia trying to place Aborigines in employment in the private sector through apprenticeships. Its funding is provided jointly by the Commonwealth Department of Employment, Education and Training and the State Department of Employment and TAFE. It has recently been advised that its funding will be cut next year, meaning staff levels will be cut from three to two.

This scheme currently has 22 people training with private employers and up to 140 others waiting for placements. From its funds, which will be about $62 000 next year, it must provide and run its own office. Presently, there are six Aboriginal training and employment units within various State Government departments, employing approximately 41 people.

The first of those established is in the Department of Personnel and Industrial Relations, and has the stated purpose of employment of Aboriginal persons within State Government departments. A further five units have been set up within departments and another is set to be established in a further Government department next year with an allocated staff budget of approximately $250 000, as I was informed. The manager of the training scheme I outlined earlier (the Statewide group training scheme) is understandably angry at the level of duplication of his area of responsibility within the public sector when his scheme is facing severe cutbacks, despite increasing demand. My questions to the Minister are:

1. What is the total cost of running all the Aboriginal training and employment units located within Government departments?

2. Why cannot one unit, such as the one located within the Department of Personnel and Industrial Relations, oversee employment and training programs for Aboriginal people throughout all Government departments?

3. Does the Minister agree that a more equitable distribution of resources between public and private sector orientated programs would more effectively and efficiently achieve real results for Aboriginal people seeking training and employment?

The Hon. ANNE LEVY: I will refer that question to my colleague in another place and bring back a reply.

MEDINDIE CAR SALES

The Hon. J.C. BURDETT: I seek leave to make a brief explanation before asking the Minister of Consumer Affairs a question about Medindie Car Sales.

Leave granted.

The Hon. J.C. BURDETT: I refer to a report in the *News* of 10 October 1990, which states:

Claims against failed used car dealer, Medindie Car Sales, could wipe out the $500 000 Second-hand Motor Traders Compensation Fund, the Commercial Tribunal heard today. At the start of the first 35 claims of more than 70 already in the pipeline, Mr Mansell, for the Office of Fair Trading, told the tribunal he could not estimate the total or even the average amounts of the claims.

But he said there was a chance the claims could wipe out the fund, which at the end of June stands at $565 000.

The article states further:

Tribunal chairman, Judge Noblet, told the dozens of people in the court he would not order they be paid out of the fund—contributed to by car dealers as part of their licensing conditions—until its financial position had been clarified.

Under legislation under which the fund had been set up, the State Government had the power to bail out the fund with a loan.

This, of course, has been canvassed quite a deal. The article continues:

He said as no such undertaking had been given by the Government as yet, it would be unfair to grant payouts on a first come-first served basis, leaving nothing for people further down the queue.

Will the Minister clarify whether this situation has been further dealt with and whether or not there is any kind of clarification, or knowledge, as to what the situation is with claims as against the amount left in the fund, and as to whether or not the Government has considered the possibility of bailing out the fund by making, in effect, a loan to the fund?

The Hon. BARBARA WIESE: The assessment of claims following the collapse of Medindie Car Sales is still under way. Five officers within the Department of Public and Consumer Affairs have been assigned to this task, and they expect to have assessed all claims within the next two weeks. In the meantime, as claims have been assessed, or the validity of matters coming before the department has been assessed, the hearings before the Commercial Tribunal have continued.

The first round of hearings heard were for claims that tended to be for fairly large amounts. As time is passing, the more recent hearings are for much smaller amounts of money, but at this stage it is not possible for us to make an assessment of the total draw that will have to be made from the fund. Until we have a clearer idea of the total amount of money that is likely to be drawn from the fund it is not possible, either, to make decisions about the future. However, it is expected that the total amount for claims is likely to be very close to the amount of money which is currently in the fund, around $500 000, and consideration will have to be given to replenishment of the fund in case there are further claims made upon it by future failures, or whatever the case may be.

The options pertaining to the implications for the fund and the needs for replenishment are issues which currently the Department of Public and Consumer Affairs has under consideration, and options that there may be for replenishing the fund will, of course, have to be discussed with the relevant industry bodies before I would be prepared to make a decision on those things or, indeed, to make a recommendation to the Government as to what ought to happen for the future. Suffice to say, it will not be very long before we are in a very strong position to know exactly what the implications will be, and I would expect that very shortly it will be possible for payments to be made to the claimants whose cases have already been assessed by the Commercial Tribunal. So there will be very little delay for those people who have been disadvantaged by the collapse of Medindie Car Sales.

COWELL HOSPITAL

The Hon. PETER DUNN: I seek leave to make a brief explanation before asking the Minister representing the Minister of Health a question about the incinerator at Cowell Hospital.

Leave granted.

The Hon. PETER DUNN: It has come to my notice that the incinerator at Cowell Hospital for the disposal of infectious material, having become very old, is outdated and it is no longer serviceable. However, the hospital, realising this, applied to the Health Commission for funding for a new incinerator. After some negotiation they were told that the incinerator would not be funded, and that funding amounted to approximately $20 000. There was further negotiation and, after a long period, the Health Commission said, 'You can have a motor car in its place.' The reason for the motor car was to enable the infectious material to be taken to Cleve Hospital, which is some 42 kilometres away, for disposal in its incinerator.

I do not have details of the cost of the motor car, nor do I have the cost of the time involved with a person taking material to Cleve, having it incinerated and then returning. But the economics of it seem to me to be quite wrong. My questions to the Minister are: is this the first sign of an attempt to close Cowell Hospital? Is there a hidden agenda? If not, can we have details of the cost of running a vehicle to transport that material to Cleve Hospital and of the ongoing costs of that operation?

The Hon. BARBARA WIESE: I will refer the honourable member's question to my colleague in another place and bring back a reply.

SOUTH AUSTRALIAN ECONOMY

The Hon. L.H. DAVIS: I seek leave to make an explanation before asking the Minister of Small Business a question about economic statistics in South Australia.

Leave granted.

The Hon. L.H. DAVIS: Yesterday the Minister, in a desperate attempt to deflect attention from the plight of the South Australian economy, as revealed by the record boom in pawns being experienced by pawn brokers in Adelaide, said that South Australia was 'much better off than other States with respect to bankruptcies', and that 'the housing industry was doing well'. She was referring to comments made by a representative from the Housing Industry Association. The Minister associated herself with those remarks, and I presume that she agreed with them. She certainly did not advise the Council otherwise.

I have ascertained the facts on these two important sets of economic statistics and they are as follows. In the July to September 1990 quarter there were 382 bankruptcies in South Australia. That in fact represented 13.1 per cent of all bankruptcies in Australia, although South Australia had only 8.5 per cent of the nation's population. I understand that August was an all time record month for bankruptcies in South Australia. In fact, if bankruptcies in South Australia were in line with our share of the population we would not have had 382 bankruptcies for the September quarter; we would have had only 249. That reveals a big difference between the views of the Minister, who said that South Australia was much better off than other States in relation to bankruptcies, and the facts. It is quite misleading.

Building approvals for September 1990—the latest figures were released on 30 October 1990, just a few days ago—also show a variation of the facts as reported by the Minister. These building approvals statistics are a litmus test, because they show the number and value of dwellings to be built in the future and the value of alterations and additions to residential buildings. These statistics show that, in fact, South Australia had only 7.6 per cent of the nation's value of new residential buildings in that month and only 5.8 per cent in value of alterations and additions to resi-

dential buildings, an aggregate of 7.3 per cent of the nation's building approvals in respect of new residences and alterations and additions to residences for the month of September, well below our national share of the population of 8.5 per cent. In other words, South Australia is being outperformed in those two important areas: bankruptcies and housing. I ask the Minister, in view of the facts that I have presented to her, whether she stands by her statements of yesterday?

The Hon. BARBARA WIESE: It is interesting the way the honourable member uses statistics: but I would like to quote from some statistics as well, because it is worth while reminding honourable members exactly what I did say yesterday. I referred to comments that had been made by people from various sectors of industry who, presumably, know something about the industries that they work for and represent. It is important to learn from people like this, it seems to me, when we have Mr Rod Nettle, who is the Chief Executive of the Housing Industry Association telling us:

> Actually, South Australia is doing extremely well. In South Australia, as distinct from the other States, it has actually been a very strong year.

He went on to say—

The Hon. L.H. Davis interjecting:

The Hon. BARBARA WIESE: The honourable member has asked his question: listen to my answer. Mr Nettle was interviewed by Mr Conlon on the ABC, as follows:

> CONLON . . . We talked to you a few weeks ago and you said that you'd managed to resist the great tumble interstate, but what does it look like into Christmas and the New Year?
>
> NETTLE . . . We're definitely going to slow down next year but the slow-down's actually going to be fairly small and again South Australia is reasonably well insulated from it. We've got falling interest rates out there which is a plus, the only thing that's going to hurt or potentially hurt—the housing industry is the growth in unemployment. It's one thing having cheap money, it's another thing having a job to be able to afford the mortgage.
>
> So long as the other sector can stay reasonably stable the housing sector will carry along fairly well, but at this stage we're not expecting any more than about a 10 per cent slowdown next year and that's from the very high level of this year, really it's reasonably secure.

I remind honourable members that Mr Nettle is talking about the high level of activity this year, which is interesting in the light of the interjection that I recall the Hon. Mr Griffin making yesterday, when he was suggesting that these comments were relevant only because South Australia was doing so badly. In fact, Mr Nettle says that the housing industry is coming from a very high level of activity this year and that he is expecting only something like a 10 per cent slowdown in the next 12 months. So, certainly, in that sector of our economy, a person who is close to the industry—and it is an industry that has always played a key role in the South Australian economy—is suggesting that things will not be as bad here as could be expected.

Certainly, we are in better shape than are the other States of Australia. He also points out, of course, that the supply industry on the housing side is really one of the most critical factors in the manufacturing employment sector. That is worth remembering, because these many industries are interrelated. As I have said, the housing industry plays a key role: if the housing industry is in serious difficulties, then many other sectors of our economy also are in trouble. People who are close to the housing industry suggest that things will not be as badly affected in South Australia as they are in other parts of Australia.

As to bankruptcies, as I understand it, in the September quarter of this year South Australia experienced a 6.7 per cent increase in bankruptcies, which was the second lowest increase of any State or Territory in Australia.

Members interjecting:

The PRESIDENT: Order! The Minister has the floor.

The Hon. BARBARA WIESE: And further, the number of bankruptcies so far this year is a very similar statistic to the number of bankruptcies that occurred in 1987, which was reputed to be a very difficult year for many businesses. So far it really is quite comparable with the figures for the past two years. So, the stories of doom and gloom being spread by various people in this State, and by members opposite and the Hon. Mr Davis in particular, are not in the least bit helpful. During the past few weeks the Hon. Mr Davis has been putting out press releases all over the State that have been picked up by numerous local newspapers—

Members interjecting:

The PRESIDENT: Order!

The Hon. BARBARA WIESE: —in which he has spread his stories of doom and gloom about the South Australian economy and about the bankruptcy statistics and various other things that he claims to be happening.

Members interjecting:

The PRESIDENT: Order! There are too many interjections. The Minister has the floor.

The Hon. BARBARA WIESE: This sort of approach is not in the least bit helpful to the South Australian economy and South Australian businesses. If the honourable member had any real regard for businesses in South Australia, he would be doing more about making some positive suggestions about how businesses can survive and prosper instead of constantly talking down the economy and talking down businesses in this State.

SCHOOL AND COMMUNITY LIBRARIES

The Hon. R.I. LUCAS: I seek leave to make an explanation before asking the Minister of Local Government a question about school/community libraries.

Leave granted.

The Hon. R.I. LUCAS: My office has been contacted by several country constituents who have voiced concern about the future of the Geranium Primary School/Community Library. The school has recently be redesignated from an area school to a primary school. A minimum of .5 librarian staff are guaranteed for this year and 1991; however, in 1992 the school librarian's hours will be reduced to .2 (or 7½ hours per week) as a consequence of the Education Department's latest staffing formula for a school with between 81 and 96 students. Country people are furious at the latest proposals, particularly in view of the Government's past assurances that there would be no cuts to school/community libraries. I quote, for example, from a press release (on a Minister of Education letterhead) dated 20 November 1989, just five days prior to the last State election, and headed 'No cuts for School/Community Libraries'. It states:

> In a statement released today with the authorisation of the Ministers of Education and Local Government, Mr Des Ross, Chairman of the Libraries Board of South Australia, pointed out that contrary to recent concerns expressed in rural areas of the State, no cuts are proposed to school/community libraries.

The release goes on:

> The Ministers today outlined the State Government's commitment to maintaining a high level of library services to all South Australians. Any changes will result in marked improvements to the services to rurally isolated communities.
>
> Despite the widespread speculation in rural communities about the possible effect of the curriculum guarantee package on school/community libraries, there will be no reduction as a result of the package in staffing, hours or services in school/community libraries.

In fact, it has been agreed that no school/community library should be staffed below .5 of a teacher/librarian, irrespective of student numbers.

In view of these assurances made by the Minister of Local Government and by the Minister of Education, just five days before last year's State election, my questions to the Minister are:

1. Will the Minister consult with her colleague the Minister of Education to ensure that the promises outlined in the joint press release of 20 November 1989 are honoured? If not, will she explain why those assurances given to rural communities less than 12 months ago are no longer binding?

2. Will she investigate what other country communities face losing their school/community library services in view of the Government's decision not to honour its election promise?

The Hon. ANNE LEVY: I can assure the honourable member that I am very happy indeed to consult with my colleague the Minister of Education, which I do frequently on a whole range of matters. In relation to this matter, I can also assure him—although he did not request it—that I will consult with the Libraries Board, which has responsibilities for the public library system throughout South Australia. Of course, that includes the public library component of any school/community library. This is obviously a matter which concerns the Libraries Board as much as it does the school community.

I point out that my responsibility as Minister of Local Government is only for the community part of a school community library. Of course, the Education Department is responsible for the service provided by the library to the school community, and it is through the Libraries Board that I am responsible for the service provided to the community in such a joint library.

RUBBISH DISPOSAL

The Hon. J.C. IRWIN: I seek leave to make a brief explanation before asking the Minister of Local Government a question relating to domestic rubbish disposal.

Leave granted.

The Hon. J.C. IRWIN: I have recently read reports that local government's regular garbage collections should be charged on the basis of weight, with the claimed objective of encouraging householders to use recycling options. Some undesirable practices may spring up from that. Council bins outside shops, etc., and bins in shopping centres, for example, will inevitably become receptacles for home garbage. Plastic bags full of garbage will appear at the base of these public bins. These practices are evident now along the seafront where council garbage drums are frequently overflowing with garden and other domestic refuse.

Is the Minister aware of the proposal to charge for household garbage collection on a weight basis? Who decides the basis for charges? Also, does the Minister believe that the councils may have to make arrangements for a central rubbish collection system allowing for different rubbish streams if charges by weight are introduced?

The Hon. ANNE LEVY: I am not aware of any proposals to charge for household waste disposal on the basis of weight. However, I will be happy to refer that question to the Minister of Environment and Planning under whose jurisdiction the Waste Management Commission has a general responsibility for waste disposal through the State. I know that the commission is in constant contact with local councils and the Local Government Association regarding the waste disposal responsibilities of councils.

REPLIES TO QUESTIONS

The Hon ANNE LEVY: I seek leave to have the following replies to questions inserted in *Hansard.*

Leave granted.

COUNTRY ROAD TRANSPORT COSTS

In reply to **Hon. PETER DUNN** (16 October).

The Hon. ANNE LEVY: My colleague, the Minister of Transport, has advised that the Government is aware of the adverse impact that the Middle-East crisis has had on fuel prices and the resulting pressures on freight rates, and the fact that by their nature freight rate increases significantly impact on rural communities. It is to be hoped that this will only be a relatively short-term phenomenon. The recent press indicates that the easing of tensions in the Middle-East could see significant falls occurring in fuel prices, although with such a volatile situation a renewed flare-up could see the reverse occurring.

Whilst the current situation is to be regretted, it is worthwhile to note that the recent increases have resulted in current fuel prices being consistent in real terms with levels that applied in 1981 after the last oil crisis. It is also worth noting that Australian fuel prices compare favourably with many Asian and European countries, although being much higher than levels applying in the United States of America.

Following an announcement made in the August State budget, prime mover fees will increase by 15 per cent from 2 December 1990, along with an increase in commercial trailer fees from $160 to $250. Such increases are considered reasonable in the difficult act of balancing the need to introduce appropriate user charges against the resulting impact on industry and rural communities. Either way the community must pay the cost of road infrastructure.

It needs to be noted that such registration fee increases are very modest compared with the levels recommended by the Inter-State Commission (ISC) report on 'Road Use Charges and Vehicle Registration: A National Scheme', in which some long distance heavy vehicle operations could face increased charges of up to $12 000 per annum, with B-doubles and road train operations facing even higher increases. The State Government rejected the ISC recommendations on the basis of considerations such as the impact proposed fees would have on rural communities.

The Government does not consider itself to be in a position to lower charges and considers that the vehicle registration fee increases shortly to be introduced are reasonable, and can see no strong justification for undertaking a review at this stage.

MOTOR VEHICLE REGISTRATION LABELS

In reply to **Hon. DIANA LAIDLAW** (18 October).

The Hon. ANNE LEVY: My colleague, the Minister of Transport, has advised that Motor Registration introduced a new on-line computer system on 17 July 1990. The new system provides clients with a more efficient and effective service whilst also reducing the chances that a stolen vehicle may be registered. The labels produced by the new system provide registered owners with more information, including the day of expiry of the registration, which was not shown on old style lables.

At the time of conversion to the new system, transactions paid immediately prior to 17 July 1990, under the old system, needed to be entered into the new system. These

transactions have been entered during the past 10 weeks. The new system issues label serial numbers different to those issued under the previous system and it was decided, after considering the cost against the benefits, that new labels should be posted to those clients affected, together with a leaflet explaining the reasons. The alternative to sending new labels to owners would have involved expensive computing program modifications to the new system.

Unfortunately, a batch of new labels was forwarded and the explanatory leaflet omitted. This has led to some confusion and misunderstanding amongst owners of registered vehicles.

The task of identifying each owner receiving a new label without an explanatory leaflet was assessed as significant. Resources at Motor Registration were committed to activities associated with the implementation of the new system and it was decided on balance, that follow-up with individual owners would not be pursued.

Registered owners should be advised to replace the original label issued to ensure that details on the label now match Motor Registration records.

GOVERNMENT CARS

In reply to **Hon. DIANA LAIDLAW** (11 October).

The Hon. ANNE LEVY: State Government Insurance Commission (SGIC) vehicles do not carry Government plates.

The 'auditor' referred to in the honourable member's question is paying for the use of the Nissan Patrol vehicle out of his salary package and SGIC does not pay incremental costs as a result of his use of this vehicle.

All vehicle costs (including both fixed capital costs and variable operating costs) are recovered from the employee by SGIC by way of deduction from salary.

This means that the more the vehicle costs to purchase, the more the employee is charged. Consequently, the choice of a Nissan Patrol vehicle did not cost SGIC any more than it would otherwise have paid to the employee concerned in the form of salary payments.

The use of the vehicle on extended trips whilst the employee is on annual or long service leave is allowed for in the operating cost charged to the employee and again, in this area of cost, SGIC does not pay any more that it would otherwise have paid to the employee concerned in the form of salary payments.

The following numbers of private plated Government vehicles have been allocated to form part of an employee's remuneration package or are included as part of an approved contract of employment:

- Chief Executive Officers and Statutory Office Holders — 44 vehicles
- Executive Level 2 and 3 Officers and equivalent — 124 vehicles
- South Health Commission — 19 vehicles

The majority of these vehicles are leased from State Fleet.

GOVERNMENT VEHICULAR ACCIDENTS

In reply to **Hon. J.F. STEFANI** (16 October).

The Hon. ANNE LEVY: State Fleet operates 1 560 vehicles of which 234 were involved in accidents in 1989-90. While the total cost of repairs of vehicles is known, a considerable amount of analysis would be required to separate the precise value of cost of repair of Government vehicles from the repair of third party vehicles resulting from negligence of Government employees. However, the estimated cost to State Fleet to repair these accident vehicles was $220 000 for the cost to repair the Government vehicles, and $40 000 to repair third party vehicles involved in accidents with Government vehicles as a result of negligence by Government employees.

ODEON THEATRE

In reply to **Hon. DIANA LAIDLAW** (18 October).

The Hon. ANNE LEVY: The South Australian Youth Arts Board is reviewing the efficiency of all its programs, including the Odeon Theatre, to determine how they fulfil the new and expanded charter of the board, and how its resources might best be allocated. No decision has been made to relinquish the Odeon. Two organisations have approached the Youth Arts Board expressing interest in the site. While the board has received no firm submission or proposal to comment upon, it is likely that a detailed proposal will be forthcoming.

One performing arts company recently approached Carclew expressing its interest in the Odeon. Carclew has, however, made no approaches to arts groups.

The board has also been approached by a commercial operator interested in taking over its lease. That operator has made no firm submission to the board, but has indicated that it intends to do so. The board has not initiated any approaches to companies.

The board has not wavered from its commitment to provide access for young people to professional performing venues, and it would consider relinquishing the Odeon only if a more efficient scheme which assisted larger numbers of young people in this way could be implemented.

The 1988 Review of the Youth Performing Arts Council recommended that the Odeon expand its hiring base to generate more income. The 1990 estimated income is $28 500, against basic operational costs of $148 000. Further, certain facilities will need to be upgraded if the theatre is to fulfil the requirements of the youth performing arts sector. These include more flexible seating and lighting configurations, storage and workshop facilities, and proper heating.

While no decision has been made on the theatre's future, the board will be considering these factors in determining if there are other options more viable than the allocation of further resources to upgrade an asset which is privately owned. Should this be the outcome, one option the board wishes to explore is a Statewide theatre rental subsidy scheme which would make available to young people across the State those theatres which are better equipped than the Odeon to service the diverse demands of contemporary youth theatre.

The net operating expenses for the theatre for 1990 are estimated to be $120 000, and $122 000 in 1991. This budget does not allow for upgrading of the asset. There is no proposal to reduce the budget of the Youth Arts Board.

The decision to lease and upgrade the Odeon Theatre was made by the Youth Performing Arts Council and the management of Carclew in consultation with the Department for the Arts and Sacon. Carclew examined 12 venues as replacements for Theatre '62 and identified two sites as the most appropriate. The Odeon Theatre was chosen and an architect was engaged to prepare detailed drawings and costings for the refurbishment.

The capital cost for the establishment of the Odeon Theatre was $444 000. In the event of Carclew moving out of the Odeon Theatre, then all transportable fittings and equip-

ment such as lights and cabling would be relocated to other venues or be available for use by youth arts clients.

QUESTIONS

PROSTITUTION

The Hon. I. GILFILLAN: I seek leave to make a brief explanation before asking the Attorney-General a question relating to policing prostitution.

Leave granted.

The Hon. I. GILFILLAN: I recently wrote to the Commissioner of Police, David Hunt, in relation to the policing of brothels in South Australia. In my letter I detailed an allegation that had been made to me of excessive harassment by police against a surburban brothel with the expressed aim of closing it down during the recent Grand Prix period. The allegation also claimed police have been harassing this particular brothel almost to the exclusion of other establishments.

Commissioner Hunt subsequently replied to me in a reply that I received earlier this week stating that he was satisfied with police methods against brothels. In addressing allegations of harassment the Commissioner said '... I would require details of the persons complaining and identification... of those who are alleged not to be receiving attention.' The Commissioner also stated that the 'strategies in policing of brothels have proved extremely successful to date...'. I ask the Attorney:

1. What are the current policing strategies toward brothels that Commissioner Hunt refers to?

2. Can the Attorney quantify the success, as mentioned by the Commissioner, of those strategies referred to by the Commissioner in the letter?

3. Is the Attorney aware of allegations of police harassment towards certain brothels in Adelaide?

4. Is the Attorney satisfied with the effectiveness of policing strategies towards brothels, as referred to by the Commissioner?

The Hon. C.J. SUMNER: I will refer the question to the Minister for Emergency Services in case he feels that the matter needs a reply.

REPLIES TO QUESTIONS

The Hon. BARBARA WIESE: I seek leave to have the following replies to questions inserted in *Hansard* without my reading them.

PETROL PRICES

In reply to **Hon. J.C. BURDETT** (20 October).

The Hon. BARBARA WIESE: The reply is as follows:

1. No formal response has yet been received from the Federal Government. I previously outlined the response to my informal inquiries to the Federal Treasurer's office in this Council on 17 October 1990 in direct response to the honourable member's question.

2. The Commissioner for Prices has monitored the retail price of super grade petrol on 3, 4 and 5 September 1990 and each Tuesday since that time. He has advised me that there has been no evidence of profiteering by resellers and that price relativities with other capital cities are being maintained.

The latest survey conducted on Tuesday, 23 October 1990 ascertained that the most common metropolitan retail price of super grade petrol was 82.9c/83.9c per litre. The current wholesale price of super grade petrol which was determined by the Prices Surveillance Authority on 19 October 1990 is 80.17c per litre.

3. Petroleum products (other than aviation gasoline) are declared goods at the monitoring level under the Prices Act at both the wholesale and retail level.

Since 1984, the wholesale prices of petrol and distillate have been subject to surveillance by the Prices Surveillance Authority while since 1976 retail prices have been determined by market forces.

If the Prices Surveillance Authority ceased to exercise control at the wholesale level and/or if resellers began making excessive profits from petrol sales, then I would consider whether formal price control should be reintroduced.

ELLISTON HOSPITAL

In reply to **Hon. PETER DUNN** (15 August).

The Hon. BARBARA WIESE: The Minister of Health has examined the honourable member's questions and has provided the following information:

The budget letters issued to all health units from Country Health Services Division are not ambiguous and are well understood by the Chief Executive Officers to whom they were addressed. Budget letters with similar wording to that for Elliston Hospital were dispatched, in early August, to approximately 60 other country hospitals and not one single query on the wording or the meaning was raised by a Chief Executive Officer (to whom they were addressed). No queries were raised by the Chief Executive Officer of Elliston Hospital either.

The budget letters provide for an annual allocation which is consistent with the State's annual cash accounting system but does indicate to health units that adjustments may be made to that allocation during the course of the year. Last year, for example, there was a six-monthly review of budgets and a number of country units had their budgets augmented during the course of the year.

The budget letter is signalling that with a major planning initiative underway on a regional basis, there may be changes arising from acceptance of these plans which may result in financial allocations being adjusted later in the year.

The development of regional plans, which seeks to better utilise the resources available to the rural community, are part of the Country Health Services Division's strategy for improving country health.

In regard to the 1990-91 budget the Elliston Hospital has been advised that the allocation is $711 100 and the hospital is to plan its service on that basis. However, the budget may be adjusted later in the financial year due to necessary adjustments which may flow from wage rises, changes in the administration of the hospitals, changes necessary to meet Government expenditure objectives or changes resulting from the planning process.

This is no different to the situation applying in previous years. The honourable member also asked for an explanation of the following statement:

> However, hospitals are to continue providing services in accordance with the budget allocations.

As outlined previously, hospitals have been given a budget allocation to enable the same level of service to be provided as in 1989-90.

Adjustments may be made to budget allocations later in the year, but this will only occur after considerable consultation and negotiation with the hospitals, regional representation and the community. It is the South Australian Health Commission's intention not to disadvantage the rural com-

munity, but rather enhance the service already being provided.

FINE DEFAULTERS

The Hon. K.T. GRIFFIN: I understand that the Attorney-General has an answer to a question I asked on 2 August about fine defaulters.

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

Leave granted.

Further to the honourable member's questions relating to fine defaulters, I liaised with my colleague, the Minister of Correctional Services and the following information is provided:

1. Section 67 of the Criminal Law (Sentencing) Act 1988 provides for persons to work off fines via community service. The section requires a person to satisfy an 'appropriate officer', either a Clerk of Court or Sheriff, that payment of the fine would cause severe hardship, and be granted approval to seek to enter an undertaking with the Department of Correctional Services for community service. That community service must be completed within 18 months. The rate of work to fine is eight hours work for each $100 or part thereof.

The fine option program commenced in 1988. The existing community service structure has been utilised to operate the program. Although slow to commence, the program is now operating successfully. In the 1989-90 period a total of 2 646 undertakings were entered, with a total commitment of 107 068 hours. Persons entering undertakings must work off their fines cumulatively. In custody, fines are served concurrently.

Many fine option offenders serve only a few days of community service work. As no restriction is placed upon accepting undertakings requested by the appropriate officers, some care is exercised in placing offenders on work tasks to minimise public risk. Community service officers have placed fine option offenders who have severe restrictions on their abilities, due to age, health, physical or mental impairment. Thus the program has provided a venue for people to meet their court imposed obligations in a positive and meaningful way, without suffering financial hardship or incarceration.

The Department of Correctional Services has met all obligations to place fine option offenders. That obligation is set by the appropriate officers, who assess applications according to the criterion of hardship. Within the legislative framework, the department has encouraged those on fine options to complete their obligations. If they fail to do so, the matter is referred back to the appropriate officer for action.

2. With regard to the requirement to ensure those who are required to pay fines, on 16 May 1990, the Minister of Correctional Services directed that measures be urgently taken to ensure that prisoners deemed to be the responsibility of the Department of Correctional Services held in police custody should be admitted to correctional institutions. As there was a state of overcrowding in the State's prisons, authorisation was given for the Department of Correctional Services to utilise temporary leave provisions under section 27 (1) of the Correctional Services Act 1982 to expedite the release of appropriately selected prisoners on temporary leave conditions.

Prisoners deemed suitable for temporary unaccompanied leave are short-term prisoners, those nearing the end of their sentence and prisoners approaching a parole release date. Any prisoner who has breached home detention, a community service order, bond or bail will not be considered for release under section 27 (1) of the Correctional Services Act 1982.

All applications are recommended by the institutional manager, and are then considered by the Parole Board. Conditions are set for the prisoner to comply with, either by the Parole Board, if appropriate, or by the institutional manager in liaison with the reporting probation officer. Reporting conditions are set for each prisoner.

As of 14 September 1990, 360 prisoners have been released pursuant to section 27 (1) of the Correctional Services Act 1982; 271 prisoners have successfully completed their unaccompanied temporary leave.

When this program was first utilised in May 1990, no minimum imprisonment time was established. All prisoners for temporary leave must now have completed at least one-fifth of their total sentence in prison.

ENGINEERING STUDENTS

The Hon. R.I. LUCAS: I understand that the Minister of Local Government has an answer to a question I asked on 23 August about engineering students.

The Hon. ANNE LEVY: I seek leave to have the answer incorporated in *Hansard* without my reading it.

Leave granted.

As Minister responsible for Employment and Further Education within a Government that is committed to the economic social and cultural development of the State, my colleague is concerned to ensure that the State's needs for qualified professionals in all areas of endeavour are met.

The term 'drop-out' is loaded with negative connotations. There are many reasons why students discontinue courses before completing them—to take up employment opportunities, to change to another course, or because of failure which itself may be due to a number of factors. The Williams report itself noted, for example, that there was a moderately strong relationship between standard of entry, as indicated by students' performance in their final year of secondary school, and completion rates in engineering courses. It is therefore not reasonable to imply that the full responsibility for students discontinuing is the responsibility of governments or the educational institutions. Nevertheless, insofar as there are systematic factors operating that work against the success of students, the Government is concerned to see those impediments addressed and removed where possible. The Minister is confident that the tertiary institutions themselves share this concern.

The Bannon Government has supported the plans of our tertiary institutions to increase enrolments in engineering courses, including the development of a joint venture between the SAIT and the Flinders University of South Australia to offer courses in engineering at Flinders which aimed to serve, particularly, residents of the southern metropolitan area. To assist Flinders Universtiy with its development, the Government has provided bridging finance at an estimated cost of $300 000 to enable building work to be advanced.

Engineering courses at higher education level require students to have a firm mathematical background. The State Education Department has allocated $480 000 to strengthen the teaching of mathematics for junior secondary students by establishing a network of maths resource secondary schools. Girls will be targeted to encourage them to further their studies in maths. This will enable those who so choose,

in turn, to consider careers in engineering and allied technical and scientific fields.

Courses in the Department of Employment and TAFE in 1989 in the disciplines of Electrical, Electronic, Mechanical and Transport Engineering received 26.3 per cent of the total resource directly expended on course provision. A measure of the student effort put into these disciplines is the actual student hours of attendance. In 1989, for formal award courses in these engineering course areas, this was approximately 2.84 million student hours which was 28 per cent of the total in all award courses. The effort in these engineering areas spreads from basic trade to associate diploma levels. The number of individual students enrolled was 15 202 which was 24 per cent of the total in TAFE vocational courses for the year.

These figures demonstrate the relative importance placed on training for engineering employment in the trade and sub-professional levels. But that is not the end of the story. It is in these areas that the reforms driven by the award restructuring moves are well advanced. New course structures will begin to be introduced in 1990. Students will receive a broader based training which will be linked to a career structure previously unavailable. The demand for increased training will require greater involvement of employers as well as imaginative developments in TAFE itself.

HOLIDAY LEAVE LOADING

The Hon. DIANA LAIDLAW: I seek leave to make a brief explanation prior to addressing a question to the Minister of Tourism, who is also the Minister of Small Business, on the holiday leave loading.

Leave granted.

The Hon. DIANA LAIDLAW: Australia is the only country in the world that pays its workers more to go on holidays than it does to go to work. Today, with the—

Members interjecting:

The Hon. DIANA LAIDLAW: The Minister would be aware of the situation that I am about to outline. Today, with the exception of perhaps workers on the Remm site, few South Australians are working overtime, and that was the basis for the decision in 1974 to provide the holiday leave-loading—

Members interjecting:

The PRESIDENT: Order!

The Hon. DIANA LAIDLAW: —and to compensate for these over-award payments. In fact, businesses big and small are shedding employees because of lack of work, and many companies, big and small, are requiring their workers, both salaried and wage workers in all positions in the hierarchy, to accept lower wages and salaries in order to avoid retrenchments. Most workers at all levels in the hierarchy are accepting that to ensure that there are not further retrenchments in a State that already has 10 per cent unemployment and, considering that our unemployment level is already 10 per cent and the highest of all mainland States, does the Minister accept arguments from business, big and small, that the holiday leave loading should be abolished ar at least amended to reflect the original intention to compensate for over-award payments for overtime? Is she aware that unions opposing both options are doing so on the basis that the loading helps to compensate workers for inflated prices during the Christmas holiday season and does she accept that such views do not reflect the original motivation for introducing the loading?

The Hon. BARBARA WIESE: I would simply like to point out to the honourable member that Australia is not the only place in the world where there is a leave loading at holiday time. I refer her to the inside back cover of the first section of the *Advertiser* today, where an article outlines the various countries in Europe where leave loadings of this kind apply. The matter of whether or not this leave loading should be continued or modified needs to be considered by the various Government and industry bodies that may have some interest in it.

There is one point that I would like to make. In examining this matter it would be very desirable for anyone who has an interest in it to look very carefully at the overall implications of abolishing the 17.5 per cent leave loading, particularly for anyone who has an interest in the tourism industry. I suggest that many Australians would not take holidays and would not support the various small businesses around Australia which participate in the tourism industry if they were not able to take advantage of the additional money that they receive at holiday time. This is a very complicated question and I think that all implications of the payment or withdrawal of the 17.5 per cent leave loading must be taken into account if a study is to be made of the subject.

COUNCIL AMALGAMATIONS

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

That this Council condemns the Minister of Local Government for the damage she has done to the process of the examination of council amalgamation proposals in South Australia and calls on the Minister to suspend all amalgamation proposals before the Local Government Advisory Commission to allow negotiation with the Local Government Association on a new set of procedures to ensure that decisions relating to local government boundaries are not dictated by the Minister and are subject to parliamentary review.

(Continued from 17 October. Page 1070.)

The Hon. ANNE LEVY (Minister of Local Government): On 17 October the Hon. Mr Irwin moved the motion on the Notice Paper which seeks to condemn the Minister of Local Government for allegedly damaging the process by which proposals for amalgamation of local government bodies are considered. He also called upon me to suspend consideration by the Local Government Advisory Commission of any proposal before it so as to allow the Local Government Association, in consultation with the Minister, to propose a new set of procedures dealing with amalgamation.

In responding to this motion, I should say at the outset that it is unfortunate that once again the Opposition spokesperson on local government is behind the times. He does not know what has been going on. For instance, he simply does not understand that the majority of the residents of Mitcham and Henley and Grange are grateful that contentious amalgamation proposals affecting them have not proceeded. He does not understand that, by establishing a committee of review, which I did in August 1989, to look at the procedures by which local government boundary changes are considered, we were responding to obvious dissatisfaction amongst ratepayers with the old arrangements. He does not understand that the Government has developed its policies in relation to local government in such a way as to strengthen the role of the Local Government Association and to provide it with a much greater capacity to influence matters affecting boundaries and amal-

gamation than it has had in the past. In short, this motion is misconceived to the point of redundancy.

I think that we should perhaps look at the motive behind this motion which has been moved by the Hon. Mr Irwin. I suggest that that motive is desperation. What we have here is a shadow Minister who is under pressure from his parliamentary colleagues to perform. The truth of the matter is that hardly anybody in South Australia—

Members interjecting:

The PRESIDENT: Order!

The Hon. ANNE LEVY: Hardly anybody in South Australia knows who the Hon. Mr Irwin is, and they are unaware of anything that he has ever contributed to the public policy debate affecting local government. He has made no impact; he is a great big zero.

It should be embarrassing to him that people in local government ask me who the Opposition spokesperson on local government is. His motive in moving this motion is a desperate search for relevance. The confusion and hypocrisy of his position will become obvious, as I will explain in a minute.

Members interjecting:

The PRESIDENT: Order!

The Hon. ANNE LEVY: Given this tragic state of affairs, is it any wonder that we are confronted with this confused, misconceived rag-bag of a motion, which is simply a pretentious gesture designed to avoid the truth?

Members interjecting:

The PRESIDENT: Order!

The Hon. ANNE LEVY: One must surely ask how long the Opposition can afford this misinformed, irrational level of debate on local government issues to continue.

Members interjecting:

The PRESIDENT: Order! The honourable Minister has the floor.

Members interjecting:

The PRESIDENT: Order! The honourable Minister.

The Hon. ANNE LEVY: This Government has led Australia in taking bold steps to enhance the position and status of local government. Let us not forget that it was the Federal Labor Government that proposed the constitutional recognition of local government in Australia and the Liberal Party, and all the members opposite, opposed it. Actions speak louder than words. The Liberal Party's opposition to the constitutional recognition of local government was an act of political vandalism that will never be forgiven by people who have the best interests of local government at heart.

In case it has escaped the attention of members opposite, on Friday 26 October 1990 the Premier announced the establishment of new relationships between State and local government in South Australia. These had been unanimously supported by the executive of the Local Government Association and they were welcomed by the delegates at the LGA annual general meeting. The Premier and the President of the LGA signed an historic memorandum of understanding which will lead to a stronger partnership between State and local government. So much for the so-called odious plot that this Government has allegedly been involved in to damage local government!

The Hon. Mr Irwin simply lacks credibility. This Government is obviously well in touch with local government, when our proposals are being unanimously endorsed by the leadership of the Local Government Association. As I said before, the Hon. Mr Irwin is the one who is out of touch and out of date. This Council has a simple choice to make in relation to this motion. It can take into account the self-serving and desperate rhetoric of a redundant individual or it can have regard to what is actually happening to State and local government relations in South Australia.

What is actually happening? This Government set up the committee of review in the middle of last year, as I have already mentioned, to find a better way of achieving boundary change, one that gives proper consideration to the views of affected residents. The Local Government Association had significant membership of this committee, and its representatives took the running in designing new arrangements. The draft report and the final report of this committee of review were both forwarded to all councils and interested parties as soon as they became available; in particular, they were sent to the Local Government Association for consultation. That occurred in the early months of this year. The committee of review received responses from interested parties, and notably a very detailed response was received from the Local Government Association. This response was considered, along with all the others, when the new procedures to deal with boundaries and amalgamations were established. On 9 August this year, in this place, the Hon. Mr Irwin said:

> The committee of review advice regarding the best way to achieve an amalgamation should be used.

This has already been done. The new procedures have been devised by the Local Government Advisory Commission, and they have been issued. All local governments now have a copy of the new procedures. They are already in place, and Mr Irwin is still calling for them. I seek leave to table a document entitled 'New Procedures for Consideration of Boundary Change Proposals'.

Leave granted.

The Hon. ANNE LEVY: I remind the Council that this motion calls for the suspension of all proposals for amalgamation to allow negotiation with the Local Government Association on a new set of procedures, ignoring the fact that all these negotiations with the LGA have taken place through all the months of this year, and that the new set of procedures has been devised, with the approval of the Local Government Association, issued and is now in place.

The Hon. Mr Irwin was sent a copy of the draft report of the committee of review in June of this year. He had the final report of the committee of review sent to him in August of this year. If he had any questions about what was being done in this regard, he could have taken the time to ask me during the past three months. That would certainly have saved this Council's time and he would have saved all of us the bother of dealing with a motion that is no longer relevant.

Alternatively, if the honourable member had listened to, or understood, my ministerial statement on 22 August this year, he would know that the questions he is now asking are both ridiculous and unnecessary. I suggest that if he reads *Hansard* of 22 August, starting on page 441, he will find out that his questions have been answered. However, whilst the motion of the Hon. Mr Irwin is simply irrelevant as a matter of practical application, the speech that the Hon. Mr Irwin gave is, I think, full of deep confusion of principle, so deep that one must question his capacity to maintain his position as shadow spokesperson for local government. Let me deal with some of this confusion.

The Hon. Peter Dunn: What about answering the motion?

The Hon. ANNE LEVY: I have, if you had been listening—

The Hon. Peter Dunn: You have not put one sentence together in answer to the motion.

The PRESIDENT: Order!

The Hon. ANNE LEVY: Mr President, there is none so deaf as he who will not hear.

Members interjecting:

The PRESIDENT: Order! The honourable Minister has the floor.

The Hon. ANNE LEVY: The Hon. Mr Irwin has implied that the Government should not have referred the Mitcham and Happy Valley amalgamation back to the Local Government Advisory Commission. This is nothing less than complete and utter hypocrisy! What is going on? Does the Hon. Mr Irwin not remember his own position with regard to the Mitcham and Happy Valley amalgamation? He is trying to take us for a ride on this matter.

In his speech on the motion, he then went on to accuse the Government of damaging local government amalgamation by rejecting the breaking up of Henley and Grange council between Woodville and West Torrens councils. He is suggesting that the Government did the wrong thing by stopping that boundary change. I ask members to listen to the comments, which are recorded in *Hansard* of 9 August of this year, of the Hon. Mr Irwin. He says:

> The Opposition supports the majority of the people of Henley and Grange that it should retain the council's area intact.

Those are his words, not mine. He made a whole speech in this Chamber along those lines. It obviously was not a very memorable speech, because even the author has forgotten the content of it.

I remind members the Hon. Mr Irwin is claiming that there is a web of intrigue being woven in all these matters. Despite the comic relief that this ludicrous motion provides, I do take the question of council amalgamation and boundary changes seriously indeed. Certainly, while the Hon. Mr Irwin has been investigating the so-called odious plots, the Government has been getting on with the much more serious and necessary business of reforming State and local government relations. The fundamental political failure of the Opposition in this debate is its inability to recognise that the problems of council amalgamation and boundary change are part of necessary micro-economic reform. This relates to the bigger question of the relationship between the three tiers of government in this country.

While all Australian political leaders now recognise that this issue is central to the future of this country, the Hon. Mr Irwin cannot lift his eyes to the level required. Australia must, as a matter of high priority, go about the task of reforming inter-governmental relations. The honourable member's colleague, the Premier of New South Wales, is an active protagonist of this view. He is reported as saying that the recent Premiers Conference in Brisbane had irretrievably changed the political mind sets in Australia, while he deplored that there had consistently been mind sets that were adversarial rather than cooperative, negative rather than positive. I think he was describing the Hon. Mr Irwin's contribution to this debate.

This Government has taken the initiative of providing the groundwork to enhance the role and responsibilities of local government in this State and to provide a much greater role for local government bodies through the Local Government Association in determining their own destiny. We are abolishing the Department of Local Government as part of this reform and, clearly, whatever the future of amalgamation and boundary issues may be, it is inextricably linked to these recent developments.

The procedures for boundaries issues cannot stand apart from the broader issues of State and local government relations. This Government will work closely with the Local Government Association in South Australia, as it has done already, in dealing with these matters. There is no point of conflict between the Local Government Association and the Government on this question. Unfortunately, though, from our past experience there is unlikely to be any positive contribution from the Hon. Mr Irwin or anyone else in the Opposition about these matters of great public importance.

The motion before us is redundant, irrelevant, immaterial and unprincipled, and should be rejected accordingly. This Council should welcome the initiatives which this Government is taking and which have been supported unanimously by the leadership of the Local Government Association. That is the main game. The honourable member's motion is a desperate cry for help and attention. It is nothing more than contradictory and self serving rhetoric.

What does the honourable member want? Does he really want, as suggested in his motion, to return to the old system of having a select committee of the Legislative Council determine a change in council boundaries? Where is the independence of local government? Where is the autonomy of local government in that dated approach? History is passing the honourable member by, and I ask the Council to reject the motion.

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

LOXTON COUNCIL

Order of the Day: Private Business, No. 13: Hon. M.S. Feleppa to move:

That the District Council of Loxton by-law No. 37 concerning permits and penalties made on 5 July 1990, and laid on the table of this Council on 2 August 1990, be disallowed.

The Hon. M.S. FELEPPA: I move:

That this Order of the Day be discharged.

Order of the Day discharged.

CLEAN AIR ACT

Order of the Day: Private Business, No. 15: Hon. Mr Feleppa to move:

That the regulations under the Clean Air Act 1984 concerning backyard burning, made on 29 March 1990 and laid on the table of this Council on 3 April 1990, be disallowed.

The Hon. M.S. FELEPPA: I move:

That this Order of the Day be discharged.

Order of the Day discharged.

TOBACCO PRODUCTS CONTROL ACT AMENDMENT BILL

In Committee.

(Continued from 24 October. Page 1323.)

Clause 2—'Review by Public Accounts Committee.'

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

Page 1, line 25—Leave out subsection (3) and insert new subsection as follows:

(3) This section expires either—

(a) on the fourth anniversary of its commencement;

or

(b) on the enactment of legislation that provides generally for the review of statutory authorities by a Committee of the Parliament (or of either House of the Parliament) and the certification by the Attorney-General, by notice in the *Gazette*, that the Trust is subject to the operation of such legislation,

whichever first occurs.

This amendment leaves in place the matter of providing for review by the Public Accounts Committee but adds the

other ingredient that, in the case of the enactment of a Statutory Authorities Review Committee and in the event of the Government deciding that that committee does have jurisdiction to supervise statutory authorities in general including the trust under discussion, the sunset clause will occur earlier and the trust will thereafter be subject to scrutiny, as will all other statutory authorities, by the new committee.

It seems to me that that would avoid the anomaly of having two committees doing the same thing. Of course, the Statutory Authorities Review Committee in the form envisaged by members on this side is a committee to which anyone, not only the Government, can refer a matter. There is very little more to say about it. It seems to me to be obvious that we ensure that there are not in due course two committees doing the same thing, and I commend the amendment to the Council.

The Hon. ANNE LEVY: I neither support nor oppose this amendment, since I oppose the whole Bill. I wonder whether the Hon. Dr Ritson is moving this amendment after consulting with his Public Accounts Committee colleagues, such as the member for Hanson in another place. As I understand it, members of that committee are far from enamoured with the idea that they should spend their time for four years in a row looking at Foundation SA. To say that they are not enamoured is putting rather mildly some of the comments I have heard from members of the Public Accounts Committee.

I would ask whether consultation has occurred with the Liberal members of the Public Accounts Committee on this matter and whether this amendment has been moved in the hope that they will not have to go through this procedure on four separate occasions. As I am sure every honourable member present knows, they can, of course, undertake to examine Foundation South Australia any time they wish; but to do so four years in a row will certainly occupy their time and prevent them using that available time for what I am sure many of them regard as far more important matters. So I would inquire of the mover of this amendment whether it arises from discussion with Liberal members of the Public Accounts Committee and, if not, has he consulted with them on this matter?

The Hon. R.J. RITSON: That response is a series of non sequiturs. The amendment stands on its own. However, I will raise the other issues. As the Hon. Ms Levy says, the Government opposes the whole Bill. Given the stance of the Democrats, at least in this place the Government is not likely to have its way. No, I have not consulted the Public Accounts Committee, nor should I. This is a separate House. That committee represents the House of Assembly.

The Hon. Anne Levy: They won't talk to you.

The Hon. R.J. RITSON: Just calm down and unfoam at the mouth for a second. The merits of the main amendment as moved are not the subject of this Committee stage. The amendment under discussion is to shorten the period of compulsion for the Public Accounts Committee to continue to examine the trust in the event that another broader-based body is created which can examine the trust. If the Hon. Ms Levy believes that I am imposing additional burden upon the Public Accounts Committee, she should again read the amendment that I have moved. Has she read the amendment? I hope she does not say 'Yes', because she will display her lack of understanding. It would be much better to say that she had not read this particular amendment properly, because this amendment reduces unnecessary burden upon the Public Accounts Committee. The Minister should support the amendment, given, though, that the Government is still going to oppose the whole thing. It is an eminently sensible one.

The Hon. Anne Levy: Did it result from consultation with the Public Accounts Committee?

The Hon. R.J. RITSON: No.

The Hon. Anne Levy: Obviously, I have read it, or I would not have asked that question.

The Hon. R.J. RITSON: This brings us back to the question of understanding, which I will not labour. As I say, this simply reduces any unnecessary burden upon the Public Accounts Committee in the event that another committee specifically designed to review statutory authorities should come into being. I really do think that members opposite, even though they oppose the whole Bill, should support the amendment just in case the whole Bill should become law. It would be better with this amendment than without it. I know it has to go to another place, and it remains to be seen what will happen there, but if the Minister really wants to keep unnecessary burden off the Public Accounts Committee then she should support this, in case this Bill becomes law. I commit my amendment to the Council.

The Hon. DIANA LAIDLAW: As the mover of this amending Bill, I am happy to also accept the amendment moved by the Hon. Dr Ritson. When I spoke on 22 August in introducing the Bill I did refer to the possibility of the establishment of a Statutory Authorities Review Standing Committee. A motion has been moved by the Hon. Trevor Griffin to establish such a standing committee of the Parliament, and I indicated on 22 August (page 454 of *Hansard*) that, with the provision of a sunset clause of four years in the Bill:

> Perhaps in four years time, Parliament will have resolved whether or not to establish a Statutory Authorities Review Standing Committee . . .

I indicated, though, that I was not hoping for too much in respect of that matter because we have been talking about it for some years in this place and made little progress. I was not prepared to see Foundation South Australia, nor were my colleagues, not receive a more permanent form of oversight in addition to its obligations under the Act to produce an annual report, as was tabled in this Council yesterday, or to be audited by the Auditor-General.

It is a unique body, as all members have acknowledged. It requires further scrutiny by this Parliament, as opposed to the Government. I have always envisaged that there may be one significant review of Foundation South Australia in the first year by the Public Accounts Committee, but thereafter it may be simply a review to see if its recommendations, if any, from that substantial inquiry have been implemented. It is not proposing that it monopolise Public Accounts Committee time. It is simply an opportunity for the Public Accounts Committee to canvass with members of Parliament the job it is doing in terms of health, and particularly smoking matters, within this State.

I am happy to accept the amendment, because I believe that if a Statutory Authorities Review Committee is established in this place or in this Parliament that would be the appropriate body for the permanent oversight of Foundation South Australia.

The Hon. I. GILFILLAN: The Democrats support the amendment as moved by the Hon. Dr Ritson. My colleague, Mike Elliott, spoke to the Bill earlier, so it is generally recognised that we support the Bill and we see this amendment as being acceptable.

Amendment carried; clause as amended passed.

Title passed.

Bill read a third time and passed.

VIDEO MACHINES

Order of the Day, Private Business, No. 21: Hon. K.T. GRIFFIN to move:

That the regulations under the Casino Act 1983, relating to video machines made on 29 March 1990 and laid on the table of this Council on 3 April 1990, be disallowed.

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

That this Order of the Day be discharged.

Order of the Day discharged.

LOCAL GOVERNMENT ACT AMENDMENT BILL

The Hon. ANNE LEVY (Minister of Local Government) obtained leave and introduced a Bill for an Act to amend the Local Government Act 1934. Read a first time.

The Hon. ANNE LEVY: I move:

That this Bill be now read a second time.

This is a Bill to amend various provisions of the Local Government Act 1934, relating to elections and to parking and other expiable offences. Most of the changes proposed are technical refinements of the existing provisions which have been suggested by local government and State Electoral Department officers, candidates, or legal practitioners. Amendments have been made to the electoral provisions of the Act between each of the periodical elections held since 1984, when these provisions were entirely reformed. Included in this Bill are several amendments arising out of the experiences of candidates in 1989.

The question of whether the omission by an electoral officer to place his or her initials on the ballot paper at the time it is issued renders the ballot paper informal was considered in *Raggatt v Fletcher and others* (C.L.G.D.R. No. 2 of 1989). The Bill reflects the decision of the court, which was that such an administrative omission does not itself render the ballot paper informal. In that case the court upheld a petition in which official error was held to have affected the result of the election and costs were awarded both against the council, which had been joined in the proceedings. and against the respondent successful candidate, who was blameless but who appeared and presented the argument against the petition.

In that particular case the council did make an *ex gratia* payment to recompense the respondent for his costs, I am glad to say. But it was under no obligation to do so. It is proposed to amend the Act to provide that where an election is invalidated on account of an act or omission of an electoral officer, any costs in favour of the petitioner must, to the extent to which they are attributable to that act or omission, be awarded against the council.

The Bill also aims to clarify confusion which exists as to whether local government electoral candidates and their agents are permitted to provide transport to the polling booth for electors. The existing relevant provision is section 125, which deals with intimidation and bribery. At present a person who drives a voter to a polling booth commits an offence only if the voter has, first, been given a material advantage and, secondly, been given that advantage with a view to influencing his or her vote.

This does not reduce to a straightforward rule for candidates and returning officers and is the source of disagreement at every periodical election. The Bill includes a new provision making it an offence for candidates and their agents generally to offer electors transport to the polling place, which has the endorsement of the Local Government Association as the best solution to the problem.

A widely representative revision committee has presented a report recommending a number of amendments to the parking regulations made pursuant to the Local Government Act. As the regulations were last promulgated in 1981, Parliamentary Counsel considered it desirable to completely upgrade them. Some of the proposed regulations require complementary amendments to the Act. At the same time, the opportunity has been taken to merge section 748d, expiation of littering offences, and section 794a, expiation of prescribed offences, such as parking and by-law offences, within the latter section.

Section 794a permits an offender to make late payment of an expiation fee prior to the commencement of proceedings together with a prescribed fee, currently $10. In the case of the City of Adelaide, I understand that this provision had the effect of increasing from approximately 35 per cent to 80 per cent the number of offenders expiating prior to the commencement of proceedings. After the commencement of proceedings, an offender can still expiate by payment of the expiation fee together with costs and expenses incurred by the council in relation to those proceedings.

In the case of an undischarged parking offence after the expiation period has expired. it is customary for a council to make a vehicle registration search to ascertain the owner of the vehicle and, acting on that information, send a final notice to the owner informing the owner that he or she may expiate by payment of the expiation fee, together with the prescribed late payment fee. Until 1989, it was possible for councils to absorb the cost of a vehicle registration search in the late payment fee, which was originally meant to act as a relatively modest deterrent penalty rather than an added administration charge.

In 1989 motor registration search fees rose from 15c to $2 for an on line computer search, from 22c to $35 for manually keyed inputs, and from $1.70 to $15 for a manual search. For this reason, I consider it reasonable to amend the Act to authorise the recovery of both the existing prescribed late payment fee and a prescribed expense, namely, the cost of a motor registration fee.

Consideration was given to making the expiation period of 21 days uniform with certain other legislation providing a 60 day expiation period. However, I am satisfied that the Summary Offences Act 1953 and the Expiation of Offences Act 1987, which provide for the longer expiation period, have significantly different characteristics. Unlike the Local Government Act, they permit the withdrawal of an expiation notice once issued, that is, there is a discretion to issue proceedings notwithstanding that an expiation notice was originally used; they have no machinery where an offence may be expiated up to the court hearing date by means of a late payment fee, etc.; and finally, they impose a relatively higher level of expiation fees. In consequence, the 21 day expiation period is not being changed in this Bill.

Part XXIIA of the Act—"Regulation of Parking and Standing of Vehicles in public places"—is characterised by the concept of owner-onus, meaning that both the owner and the driver of a vehicle parking or standing contrary to the regulations shall each be guilty of an offence. Thus, in the past, the owner has always been vicariously liable for any parking offence despite the fact that he or she may not have been the driver. This was done for administrative reasons and followed international practice. At present, the owner-onus concept is implemented by regulations but it is now considered timely to locate the concept in the Act and to extend it to other expiable offences involving the use of a vehicle.

Without deflecting from the thrust of the concept, the revision committee has recommended that before a com-

plainant, customarily a council, commences proceedings for a parking offence it should be mandatory for the complainant to send a notice to the registered owner of the vehicle, inviting the owner, if he or she was not the driver at the time of the alleged offence, to supply a statutory declaration setting out the name and address of the driver. Where an owner supplies an appropriate statutory declaration, it would be a complete defence. This defence also exists in the Private Parking Areas Act 1986 and in the parking legislation of most other parts of Australia. This revision committee recommendation has been acted upon in the Bill and broadened to apply to all expiable offences against the Act, regulations, and by-laws, involving the use of a vehicle.

Upon receipt of a declaration from an owner naming another person as the driver it will be necessary for a council, before commencing proceedings, to serve a notice upon the person named as the driver. The notice will set out particulars of the alleged offence and give the recipient the opportunity either to expiate the offence or to make out a defence.

In order to protect the rights of a person who, after disposing of his or her vehicle, is liable for parking offences committed by the new owner prior to re-registration of the vehicle, it will also be a defence for such a person to supply a declaration confirming that he or she had complied with the transfer requirements in the Motor Vehicles Act and setting out the name and address of the new owner.

The new procedure for notifying the owners of vehicles and, subsequently, drivers nominated by owners is set out in section 789d in clause 21 of the Bill. Councils will be assisted by the provision of guidelines prepared by the Department of Local Government detailing each step which should be taken prior to commencing proceedings for parking offences and for other expiable offences involving a motor vehicle where it is not possible to leave an expiation notice on the vehicle. These guidelines will assist councils in the exercise of matters which have been left to their discretion, such as the period which it would, under the circumstances, be reasonable to include in a notice to an alleged driver under new section 789d (4) *(f)*.

Other amendments include an increase from $200 to $500 in the maximum penalty for a breach of the parking regulations. At the request of the Corporation of Walkerville the opportunity has also been taken in this Bill to amend section 886d in a way which will allow the corporation to increase the number of members on the Levi Park Trust Committee of Management.

Other minor amendments are explained in the detailed clauses of the report. I seek to have the detailed explanation of the clauses included in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clause 1 is formal.

Clause 2 provides for the commencement of the measure.

Clause 3 adds two definitions to section 5, the general interpretation provision.

A definition of 'driver' is added to ensure that the term includes the rider of a motor cycle.

A definition of 'owner' of a motor vehicle is included. This definition currently appears in section 475i in relation to parking offences but the term is used elsewhere in the Act. The definition is altered to ensure that 'owner' includes a person registered interstate as the owner of a vehicle and a person to whom ownership has been transferred whether or not the Registrar of Motor Vehicles has been informed of the transfer. As in the current definition, a person who has hired a vehicle or has possession of a vehicle pursuant to a bailment is also to be considered an owner of the vehicle.

Clause 4 amends section 99 to ensure that the regulations may make any provision that may be appropriate in relation to the form or content of ballot papers.

Clause 5 relates to the issue of advance voting papers under section 106. It is proposed that a returning officer will not be required to mark the voters roll when he or she issues advance voting papers to a person whose name appears on the roll, but instead that the returning officer will simply be required to keep an appropriate record of the issue of the papers. Furthermore, a returning officer will be able to give notice of the availability of advance voting papers by notice in a newspaper circulating in the area rather than by public notice within the meaning of the Act.

Clause 6 amends section 106a in a manner that is consistent with the amendments to section 106 of the Act.

Clause 7 amends section 107 so that an electoral officer who receives an envelope apparently containing an advance voting paper will not be required by the legislation to rule a line through the voter's name on the roll, or to make a comparable record in the case of a voter whose name does not appear on the roll.

Clause 8 will enable a person who is unable to sign his or her name to make a mark for the purpose of signing any voting material, provided that the mark is identifiable as a signature and is made in the presence of a witness of or above the age of majority.

Clause 9 relates to the operation of section 122. It has been argued that a council cannot change the method of counting votes to apply at elections of the council after a determination has been made under section 122. This is contrary to the true intent of section 122. However, the Government has reassessed the operation of section 122 and decided to provide that a determination cannot be made unless the existing determination has applied for at least two general elections. Furthermore, the opportunity will be taken to counter any possible argument along the lines referred to above.

Clause 10 relates to two matters. The first matter relates to the use of electronic equipment for the purpose of recording and counting votes. Section 123a presently refers to equipment for counting votes. A new provision will enable detailed regulations to be made prescribing the kind of equipment that must be used and the procedures that must be observed if electronic equipment is introduced either for recording or counting votes. These regulations will be able to modify the operation of the relevant provisions of Part VII of the Act. The second matter has been included in response to the decision in *Raggatt v Fletcher*. It is proposed to enact new section 123b to provide that a ballot paper is not informal by virtue of being uninitialled by an electoral officer if the ballot paper is otherwise accepted as being authentic. A similar provision exists in the Electoral Act.

Clause 11 will make it an offence for a candidate, or someone acting on behalf of a candidate, to offer to an elector transportation to or from a polling booth, other than in certain specified cases.

Clause 12 will make it an offence for an electoral officer to fail to carry out (without proper excuse) any duty connected with the conduct of an election or poll. A similar provision exists in the Electoral Act.

Clauses 13 and 14 relate to proceedings before a Court of Disputed Returns in a case where it is alleged that an election is invalid on account of an act or omission of an electoral officer. In such a case, a copy of the petition must be served on the relevant council and the council will be

able to act as replicant. Costs will be awarded against the council to the extent to which an election is voided on account of an act or omission of an electoral officer.

Clause 15 amends section 475a to increase the penalty that may be imposed for breach of a parking regulation from $200 to $500.

Clause 16 strikes out the definitions of 'owner' and 'registered owner' from section 475i. See clause 3 above.

Clause 17 amends section 693 dealing with service of notices. A potential technical problem is avoided by providing that service of a notice may be accomplished by leaving it at the person's residence with someone apparently over the age of 16 years (rather than as is currently provided with an adult living with the person).

Clause 18 amends section 743a which provides for an evidentiary aid in the prosecution of offences against by-laws. The amendment limits the application of the section to offences involving animals. Vehicles are adequately dealt with in new provisions inserted by clause 21.

Clause 19 repeals section 748d which deals with the expiation of littering offences. The section is amalgamated with section 794a by clause 22.

Clause 20 makes an amendment to section 789a consequential to the inclusion of the definition of 'owner' of a vehicle in section 5.

Clause 21 inserts three new provisions relating to offences involving vehicles.

New section 789b provides that where the driver of a vehicle is guilty of an offence against the Act, regulations or by-laws the owner of the vehicle is also guilty of an offence.

New section 789c provides that only the owner or the driver, not both, may be convicted of an offence arising out of the same circumstances.

New section 789d sets out certain steps that must be taken before the owner or, in certain cases, the driver, may be prosecuted. Before prosecuting an owner of a vehicle, the prosecutor is required to inform the owner of the particulars of the offence and invite the owner, if he or she was not the driver, to provide a statutory declaration nominating either the driver or a person to whom the vehicle had been transferred prior to the time of the alleged offence. The latter is only effective if the owner complied with his or her obligations under the Motor Vehicles Act 1959 in respect of the transfer. The owner has 21 days within which to make such a declaration. It also provides that it is a defence for the owner to have provided such a statutory declaration or if it is proved that, in consequence of some unlawful act, the vehicle was not in the possession or control of the owner at the time of the alleged offence.

The section also provides that if, in accordance with an invitation, an owner of a vehicle nominates a person as the driver of the vehicle and the offence concerned is one that may be expiated pursuant to the Act, the prosecutor must, before commencing proceedings against the nominated driver, inform the driver of the particulars of the offence and of the statutory declaration nominating him or her that the offence may be expiated and that he or she may be prosecuted if it is not expiated within the period specified in the notice.

The section also provides an evidentiary aid—in proceedings against a person named in a statutory declaration it will be presumed, in the absence of proof to the contrary, that the person was the driver of the vehicle.

Clause 22 amends section 794a which deals with the expiation of offences. Section 748d dealing with the expiation of littering offences is subsumed within this provision. Alterations are made to ensure that the same approach is taken towards all expiable offences. The section is also amended to make it clear that the fee prescribed for late payment of an expiation fee may include a component for costs incurred by the council in recovering the expiation fee.

Clause 23 amends section 794c to ensure that prosecution for all expiable offences must be commenced within one year. Currently, this requirement only relates to offences against the parking regulations.

Clause 24 makes a minor amendment to section 886d so as to allow the membership of the Levi Park Controlling Authority to be varied.

Clause 25 inserts a new section 890. This section enables regulations to incorporate codes and standards as in force from time to time or as in force at a specified time.

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

LANDLORD AND TENANT ACT AMENDMENT BILL (No. 2)

Adjourned debate on second reading.

(Continued from 6 November. Page 1499.)

The Hon. L.H. DAVIS: The amendment to the Landlord and Tenant Act in this case seeks to prevent landlords passing on land tax to tenants, and this Bill seeks to ensure that that will not operate with respect to any renewal, assignment or transfer of agreement in existence before the commencement of this measure. That perhaps is the only redeeming virtue about this piece of legislation: that it will not impact on existing leases, including those where there is a right of renewal.

I understand that a similar measure has been looked at by the Victorian Parliament. It shows that the South Australian and Victorian Labor Governments are tarred with the same brush. We have the remarkable assertion in the second reading speech that it is the owner who benefits from an increment to value in the land and, therefore, because of that, the owner should be responsible for contributing a share of that increment to the community; in other words, he should bear the land tax—

The Hon. Anne Levy: I thought you wanted to help small business.

The Hon. L.H. DAVIS: —and the tenant should not bear the burden of land tax. In fact, it is argued in the second reading speech that the cost of land tax being borne by the tenant defeats the purpose for which land tax was devised. If that logic is followed through, Minister, you would argue that rates and other taxes likewise should not be imposed on the tenant, but should be borne by the landlord. Of course, the Minister, in her enthusiasm, says that this measure is designed to help small business. As the shadow Minister of Small Business I know something of the pain that small business is experiencing. The Minister's interjection underlines the ignorance which exists in Government. As I have said on more than one occasion, not one member of the Bannon Government has had any experience of small business. If they had, they would know what the consequence of this legislation will be.

Let me tell them exactly what happens when an investor decides to develop a site: to take down an old building and put up a larger one or to develop a vacant site for office or retail accommodation. The calculations into which the investor enters are based on a rate of return. The figures which he or she calculates are considered by the bank or

the lending institution before a judgment is made as to whether or not they will lend on that investment proposition. The marketplace establishes a value for commercial office or retail space. Obviously, that will vary from the prime retail space of Rundle Mall, which is $1 000 gross rental per square metre down to as little as $300 per square metre in areas in the city, which would still be regarded as very desirable areas, and to rent much less than that in strip shopping in unfashionable metropolitan areas.

Even the Minister might appreciate that there are differences in market values, and that is equally true of office rents. The rents in Adelaide currently will vary from the prime office space of the State Bank building, which is well over the $300 per square metre level, down to $200 per square metre at the frame and on the fringes of Adelaide itself and to much lower values in metropolitan Adelaide.

Ultimately, the whole package of expenses, which have to be borne in one way or another, are taken into account in making a judgment whether or not a building project goes ahead. The inquiries that I have made reveal that land tax is indeed an important component of rental, whether one is talking about office accommodation or retail accommodation. In fact, the inquiries I have made today with a leading Adelaide real estate firm with experience in commercial and retail accommodation indicate that land tax can be 3 per cent or 4 per cent of the total gross rental payable, and that it can account for up to 6 per cent of gross rental payable on retail space in Adelaide. In other words, it is a significant figure; it is not an amount that can be just set aside and regarded as inconsequential. I make this point because the second reading explanation from the Attorney-General is very short on detail on what I believe is a very important measure.

If this Government is concerned about taking into account the consequences of its legislation, the very least it could have done is provide an analysis of what would happen in the real world. I suppose it has not done so, because it does not really understand what is going on in the real world. As an example of what happens in the real world, I cite 1 000 square metres of prime office space in Pirie Street which, at the moment would receive a gross rental of about $250 to $270 a square metre. Let us say $250 a square metre. That would result in an aggregate annual rental of $250 000. The outgoings for the tenant—and it could be an accounting firm, a legal firm or an advertising firm—including electricity, rates and taxes, insurance, management fees, fire protection, and air-conditioning (a whole range of expenses which are included in the outgoings), would be $85 a square metre. In other words, the gross rent is $250, and the outgoings will account for about $85 per square metre, which would leave a net rent of about $165 a square metre.

Land tax will account for about 8 per cent to 10 per cent of those outgoings of $85 a square metre. In other words, about $8.50 a square metre will be taken in land tax, and that figure represents about 3½ per cent of the gross rental in the example given.

In the retail area, it is much more difficult to generalise because, as I have said, there are enormous variations depending on whether one is talking about, for example, Rundle Mall, Gawler Place or Grenfell Street, but it is generally true to say that outgoings in the retail market are higher than is the case for commercial office premises. Of course, if one is dealing with a situation where land tax is being calculated on an aggregation basis, and the landlord and/or the tenant is being trapped by the increased scale of land tax, it could be a significant percentage of the tax payable. As I have said, it could be as high as 6 per cent.

Those are the facts as they apply in Adelaide today. So, if we assume that someone is to enter into a new lease after this legislation comes into effect, what will be the practical impact? One is dealing with a new lease which, nevertheless, has a relation to existing market yields. In the real world, Minister, the new lease will be written in terms which will be equivalent to the existing market yields which, of course, reflect the fact that the tenant is paying the land tax. It will be a different situation. When this Bill becomes law land tax will not be passed on to the tenant, but will be paid for by the landlord. In the case of the Pirie Street office block, where land tax accounted for 3½ per cent of the gross rental payable, it will mean that there will be an adjustment in the yield, because that is the way the real world works. One cannot suggest for one moment that there will be a pre and post Landlord and Tenant Act Amendment Bill market—there will not be two different markets in Adelaide. Over a period the markets will adjust to reflect the real world in which we live.

So, the yields will adjust, the landlord will pass his land tax on and that, of course, is the craziness of the Government in the sense that it does not believe that that will happen. I suggest to the Minister that, in the real world, that will happen because otherwise buildings will not get built, and office space will not become available in the future. If it does, it will certainly be at a higher rent to reflect the discouragement of investors. Of course, that fact will also be true in the retail scene.

As I have said, the impact of this Bill will not be dramatic in the sense that the vast majority of all leases in existence now will not be trapped by this legislation; it will only affect new leases coming into effect on the date this legislation comes into operation. However, it will mean that in time rentals of the office buildings in Pirie Street, where the yield is 8 per cent and the land tax accounts for about 3½ per cent of the gross rental, will have to adjust. I think my colleague, the Hon. Ron Roberts, will understand the impact of a 3½ per cent adjustment to take into account this land tax factor equates to about a quarter of a per cent on that yield. So, that is the movement expected in the market place to take into account this legislation.

I am speaking at the cross benches—I suppose, to be frank—in the sense that quite clearly the Government is introducing this measure in the naive belief that it will be seen to be helping small business. It may well help small business in the very short term, because the market is so dreadfully depressed, and the supply of office and retail space is well outstripping the demand. So, in the short term I will accept that the tenants writing new leases will receive some marginal benefits. That is already happening because obviously any shrewd tenant is striking a hard bargain out there in the real world, and many of them are getting free rents or free fit-outs for their shops or offices as part of signing up for a five-year lease with the right of renewal for five years.

In the longer term it will even out, because the yields for offices and shops let out after this legislation takes effect will surely be the same in time as the yields for those offices and shops that are not caught by this legislation for many years. That is a fact. That is how the market works and that is the real world, which the Government does not know. I am concerned to think that the Government has introduced this Bill in what is an absolutely cynical move to deflect criticism away from its policy on land tax.

My colleague the Hon. Trevor Griffin made the point very succinctly and accurately in speaking to this measure only yesterday, when he said that it is quite clearly a measure designed to take the heat off the Government. I can

quite understand that, if a tenant receives a 100 per cent increase in land tax in one year, he will be hopping mad and will blame the Government. Of course, if you have 10 tenants in a retail shop and only one landlord, you do not have so many people squealing. So, to put it on the landlord might be seen in the short term to be currying favour with small business.

As I have said, in the longer term the consequences of this legislation will be negligible in the marketplace. It will not have any impact on how the market operates, because, ultimately, investors have to make a return on their outlay and tenants have to pay what the market is demanding for offices or shops. There will be no discrimination between pre-legislation and post-legislation market yields. I think it is cynical and naive, because over the past five years we have seen an approximate 128 per cent increase in land tax—a dramatic increase.

Only recently, I drew attention to the fact that, even though there has been a significant collapse in the central business district's land prices, the Valuer-General has seen fit actually to increase the value of central business district land for the purpose of 1990-91 land tax valuations. Those valuations come into effect on 1 November, and I think that there will be many appeals from landowners who, quite understandably, are aggrieved by the fact that the Valuer-General can somehow increase the value of land by 15 per cent or 20 per cent when the market in every instance I have heard of is actually diminishing the value of land because of the very significant economic slump we are experiencing in South Australia.

So, this is a thin piece of legislation. It is as unconvincing as the second Bill argument. As I have said, in the long term it will mean nothing to small business, sadly, and will mean no change in the real world, because, ultimately, the marketplace provides all the answers.

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

TECHNICAL AND FURTHER EDUCATION ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 24 October. Page 1339.)

The Hon. R.I. LUCAS (Leader of the Opposition): I support this Bill, which is intended to make three smallish changes to the Act. First, the new title of the Minister is included in the Act, and it is really just an administrative change as a result of the change of title of the Minister. There is no opposition from the Liberal Party to that amendment. The second major change is the provision for wider opportunities for alternative employment for officers of the teaching service who become temporarily or permanently ill or disabled and are unable to perform their normal duties. In addressing that change it is important to note that this new provision covering officers who become temporarily or permanently ill or disabled only brings the TAFE Act into line with similar provisions in the Government Management and Employment Act and the Education Act.

For example, under the provision, an officer of the teaching service of TAFE would now be able to be transferred to other employment within the Public Service, obviously, not necessarily within the Department of Technical and Further Education. This, in effect, is an amendment to section 17 of the Act, which provides:

> If the Director-General is satisfied that an officer is, by reason of mental or physical illness or disability, incapable of performing satisfactorily the duties of the office occupied by the officer, the Director-General may do one or more of the following.

In essence, summarising the amendment, the Director-General can transfer the officer to another office in another college of TAFE; the Director-General could recommend to the Minister that the officer be transferred to some other employment in the Government of the State, that is, a transfer to another Government department; he could grant the officer leave of absence without remuneration from the teaching service, which happens on occasions; and, fourthly, the Director-General could recommend to the Minister that the officer be retired from the teaching service. Basically, they are the four principal options open to the Director-General. There is one other proviso as follows:

> The Director-General must, before transferring or recommending the transfer of an officer to an office or position of reduced status, or recommending that an officer be retired, be satisfied that transfer of the officer to an office or position or equivalent status is not reasonably practicable in the circumstances.

The Director-General must seek to find a position of equal status for this particular officer and only if 'it is not reasonably practicable' can the Director-General, either directly or by way of recommendation to the Minister, in effect move that officer to a position of reduced status. That amendment to the Bill specifically looks at that particular option of a person being moved to a position of reduced status.

Under the Education Act, if we look at what happens to teachers or officers in the Education Department under section 17 of that Act, the Director-General of Education can, without quoting all of that section:

> ... transfer an officer to an office or position of reduced status and alter the classification of the officer accordingly, or may recommend to the Minister that the officer be retired from the teaching service.

Certainly the recommended change in the TAFE Act is broadly consistent with the existing provision within the Education Act. Therefore, TAFE teachers or lecturers will be treated broadly consistently with the Education Department teachers.

I must admit, though, that on reading through the Government Management and Employment Act and pulling out relevant sections, whilst it is clear that there are very wide powers available to heads of departments or chief executive officers about transferring persons with mental or physical illness or disability, that they can be transferred to some other position within the Public Service or be retired, there does not appear to be specific reference to moving persons to a position of reduced status.

It may well be that in other sections of the Act, that I have not been able to turn up quickly, or perhaps under regulations in the Government Management and Employment Act, a chief executive officer may well have that power, but on my reading that would appear to be the only major distinction between the powers of transfer of executive officers or directors-general to move officers who become temporarily or permanently ill or disabled and are, therefore, incapable of performing the duties required of them. That second major feature of this Bill is supported by the Liberal Party.

Before turning to the third and final issue, I have one further comment in relation to this ability to transfer an officer to a position of reduced status. It was raised with me as to whether in fact this provision was contrary to the Equal Opportunity Act, that perhaps in some way this ability for the Director-General to transfer an officer who was suffering some form of disability to a position of reduced status was contrary to the Equal Opportunity Act, which of course covers discrimination against persons suffering physical impairment.

As a result of that inquiry, my office checked with the Equal Opportunity Commissioner's office and spoke with an officer in that section. It was the considered view of the Commissioner's office that this particular amendment to the TAFE Act was not in conflict with the Equal Opportunity Act. Section 79 of the Equal Opportunity Act was quoted to us, and that section, in part, provides:

> This Part [of the Act] does not render unlawful discriminatory rates of salary, wages or other remuneration payable to persons who have physical impairments.

As I understand the reading of that section, it means that someone who is suffering a physical impairment can lawfully be paid a reduced rate of salary, wage or other remuneration package. I presume that, therefore, covers the situation in relation to the amendment we have in the TAFE Bill before us, that if someone was to unfortunately find themselves temporarily or permanently ill or disabled and, if the Director-General wanted to activate this new power, he could transfer them to a position of reduced status, and under that provision in section 79 of the Equal Opportunity Act would be acting lawfully.

The third and final change in the Act refers to the clarification of delegation powers of the Minister and Director-General. This has been necessitated because of the changes made prior to the election to the employment status of what we then knew as principals of TAFE colleges and we now know by their lofty new title as directors of TAFE colleges.

This change in the Bill only seeks to validate current practice and procedures. In late 1989, when a new agreement was concluded with principals of TAFE colleges, they were in fact taken out of the teaching service provision of the Act, which from memory is section 15, and employed as directors under section 9 (6) of the Act. Legal advice provided to the Government is that, without this amendment to the Bill, the Minister and the Director-General are not able to delegate current powers and functions to any officer employed under section 9 (6) of the Act. This amendment will seek to correct this anomaly. I presume, therefore, that in part it seeks to validate retrospectively all such delegations that have been going on since November last year.

Prior to the last election, principals were employed under section 15 of the Technical and Further Education Act, which talks about the Minister being able to appoint such teachers to be officers of the teaching service. That is, as with lecturers, the principals of TAFE colleges were employed as officers of the teaching service under the TAFE Act and were therefore appointed under this specific provision of section 15.

As part of their negotiated salary package of late 1989, and prior to the election, the TAFE principals negotiated not only increased salaries as an offset for some reduction in annual leave allowable to them—formerly they had 10 weeks annual leave—but under the new arrangement, as an offset for increased salary and other benefits, they received four weeks annual salary plus an extra two weeks of special leave, which had to be used for special purposes. At that time, as I said, their designation was changed from 'principal' to 'director' and they were moved from employment under section 15, as officers of the teaching service, to employment under section 9 (6) of the Act, as directors of TAFE colleges. Section 9(6) of the Act says:

> The Minister may appoint such officers and employees in addition to the officers of the department and of the teaching service as he considers necessary for the proper administration of this Act.

As I understand it, under section 9 (6) of the Act, in the past the Minister has appointed lecturer assistants, student services officers and some of the part-time instructors in TAFE colleges.

There are two clauses providing general delegation power under the Act. Clause 8, in effect, allows the Minister to delegate either to the Director-General or any other officer of the department or the teaching service any of the Minister's powers, duties, responsibilities and functions under the Act, except his power to dismiss an officer of the teaching service.

Under section 13 of the Act the Director-General may delegate, with the consent of the Minister, any of his powers duties, responsibilities or functions to any other officer of the department or any other officer of the teaching service. Under section 8 and 13 it is quite clear that in certain circumstances both the Minister and the Director-General are able to delegate significant powers to officers of the teaching service and, indeed, that has always been the practice. Many of the powers, functions, duties and responsibilities of the Minister and the Director-General are delegated to officers of the teaching service. Whilst principals were officers of the teaching service there was no problem. However, with the change prior to the election, when principals were no longer officers of the teaching service—they were, in effect, officers of the Minister appointed under section 9 *(b)*—there is, in effect, no legal power of delegation for the Minister and the Director-General to delegate their powers, duties, functions and responsibilities to directors of TAFE colleges. Of course, what has been going on in the past 12 months is that those delegations have continued and directors of TAFE colleges have continued to exercise those delegated powers, functions, duties and responsibilities. Obviously—because we have this Bill before us—they have been exercising those delegations illegally.

The interesting question is that no-one at this stage, as I understand it, has complained. I understand that this was picked up by departmental officers and Crown Law as part of their review of the Technical and Further Education Act and it was decided that an attempt should be made to rectify the legislation. The legislation was first introduced in the April session of Parliament. It did not get through the House of Assembly and has therefore been rolled over into the budget session and it has taken until November for it to wend its way through the system and reach the Legislative Council. I can only hope that the delays from April to November have not, or do not, cause any legal problems for the department in relation to the exercise of delegated power since November last year through to November this year.

In considering this final aspect of the Bill, I asked officers of the Department of Technical and Further Education to indicate to me what powers of delegation or function were delegated from the Director-General or the Minister to various officers of TAFE. I must confess that I thought I might get a page or two of delegations indicating the extent of such delegations within the Department of Technical and Further Education. I must say that I was frightened, amazed, and quite a few other words as well, when I received a document of 75 to 100 pages of examples. This document is issued to very many officers within the Department of Technical and Further Education and it indicates all of the delegated powers.

For example, there is the power to reimburse telephone calls. The original authority is with the Chief Executive Officer and it has been delegated to the Deputy Director-General (DDG), Director (D), the central office manager or branch head (COMBH), principals (P)—although that should be upgraded now to 'director'—vice principals (VP), senior college administrative officers (SCAO), college administrative officers (CAO) and business managers (BM). So, all of those people have been designated the power from the

original delegating authority—the Chief Executive Officer—to reimburse the cost of telephone calls. I could go down this wonderful list, which has items such as the 'reimbursement for loss, damage of clothing and personal effects of staff'. There is a different delegated authority for that; only DDG, D, COMBH, P and VP have that delegation. The SCAO, CAO and BM miss out on that delegated authority.

We also have the delegated authority for 'reimbursement for loss, damage of private property of staff', I am afraid that the SCAO, CAO, and BM miss out again. 'Reimbursement of private telephone rental and connection fees' obviously is a significant delegated authority, because that authority can be delegated only to the DDG from the CEO. All other officers miss out. There are pages and pages just in relation to reimbursement.

For the life of me, I cannot understand why the delegations vary so much. As I said, there are literally 75 to 100 pages of various powers, with all sorts of differing versions of delegated authority. I know from my eight years in Parliament that we often see this very simple clause stating that the Director-General of a department has the power to delegate powers, duties, functions and responsibilities. I must now confess that I have never thought too much about it. However, from now on, I think I will make it the case that each time we debate these matters to seek from the Minister in charge a similar document from the various departments to see which department can out do the others. This present document is called 'The Delegations and Signing Authorities Manual, of the Department of Technical and Further Education.' We will be able to see whether similar documents and authorities exist within all other Government departments.

As I indicated, the Liberal Party is happy to support this Bill. They are the three major amendments outlined in the Bill. There is no provision of the Bill that we intend to oppose. We will not be moving any amendments during the Committee stage. I support the Bill.

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

ADELAIDE CHILDREN'S HOSPITAL AND QUEEN VICTORIA HOSPITAL (TESTAMENTARY DISPOSITIONS) BILL

In Committee.

Clauses 1 to 2 passed.

Clause 3—'Certain dispositions to benefit the Adelaide Medical Centre for Women and Children.'

The Hon. R.R. ROBERTS: I move:

Page 1, lines 17 to 23—Leave out subclause 1 and insert new subclause as follows:

3. (1) A testamentary disposition, whether made before or after the commencement of this Act, in favour of—

(a) the Adelaide Children's Hospital Incorporated;

or

(b) The Queen Victoria Hospital Incorporated,

will be taken to be a disposition in favour of the Adelaide Medical Centre for Women and Children.

This amendment is recommended unanimously by the select committee that examined this Bill and it is recommended to the Committee.

The Hon. J.C. BURDETT: I support the amendment. I was a member of the Select Committee, and this drafting amendment is designed simply to make the intention of the original Bill more clear.

Amendment carried; clause as amended passed.

New Clause 4—'Special provision relating to gifts over, etc.'

The Hon. R.R. ROBERTS: I move to insert the following new clause:

After line 29, insert new clause 4 as follows:

4. Section 3 does not operate to defeat the intention of a testator or testatrix who provided that, should the beneficiary cease to exist, the disposition was to lapse or was to be in favour of some other person or body.

This clause is a drafting alteration to the original Bill. It came about after long discussion between the committee and members of the public, and with advice from Parliamentary Counsel. It has been recommended to cover the situation so that the wishes of people making testamentary dispositions will be protected. I recommend it to the Committee.

The Hon. J.C. BURDETT: I support the amendment, which has some substantive effect. It is designed to cover the situation where a testator or a testatrix has made his or her will prior to or after the passing of this Bill, and it expressly says that if the object of their bounty. namely, the Adelaide Children's Hospital or the Queen Victoria Hospital, had ceased to exist before their death, there was to be a gift over to somebody else.

So, the intention of this new clause is to make sure that the wishes of the testator or the testatrix are not defeated and, if they had expressed a gift over in the event that the body in question had ceased to exist, that wish was to be honoured.

Obviously, it is desirable that this Bill should interfere as little as possible with the expressed wishes of people who make their wills. It is a fairly serious and substantial thing, anyway, for Parliament to say that the expressed intention in a will shall have some different effect. In the case of the present Bill, doing that was perfectly proper; it was intended, very largely, to save court costs and things of that kind but it is necessary to ensure that the expressed wishes of a person who makes a will shall be interfered with as little as possible. That is what the amendment does and I support it.

New clause inserted.

Title passed.

Bill read a third time and passed.

WILPENA STATION TOURIST FACILITY BILL

Adjourned debate on second reading.

(Continued from 6 November. Page 1498.)

The Hon. PETER DUNN: I rise to support the Bill for several reasons, which will become clear as we go into the debate. I support them principally because it has been my Party's position to do that since the project was first announced. Under John Olsen, a statement was made that we were supporting the project to a limited stage. Subsequent to that, Mr Baker has done the same thing and, to be quite honest, I can only see that there can be benefit to the State.

The Bill facilitates the establishment of this project, which has hung out and hung out to dry to such a degree that it looked as though it was another project that would fall over in South Australia's development phase. All that blame must surely go on the Government. The Government has done nothing. It has handled the matter atrociously. It has played around with it, just as we might expect from a group of people who have never been in business. The Government has fuddled and muddled around with it until now we have against it a very strong group of people who have

been writing to me *ad nauseam* in the last few days the most stupid letters asking me to vote against this development.

I agree with most development in a State such as this. I have always done that. This State is probably the poorest performer in development per head of population throughout Australia, and the blame for that can clearly go back to the Government, because it has muddled and fuddled around with so many developments—up to about 10, I think—and they have fallen over. Therefore, we have got to the stage where entrepreneurs and those who wish to invest in this great State of ours have left in droves. This State had a potential—

Members interjecting:

The Hon. PETER DUNN: I have every right to knock the Government. It has handled this project in an atrocious manner. It has done nothing to promote any project in this State. Every time something that is of any consequence comes up, the Government messes it up. It takes so long that people lose interest and leave the State in droves. As a result, we do not have projects developing in this State, as many other States have. As has been stated in other arguments for this development, I suspect that the Government, through section 50a, could have pushed the business on and had the development up and running. Indeed, it nearly brought to its knees the group that was developing it.

I understand that it has had difficulty raising money because the Government could not get its act together. As a result, that group did not know whether or not the scheme was to go ahead. If the Government had in the first place said, 'We are not interested, but put up a plan and we will inspect it,' and it had then rejected it, I would not object, but it did not do so. The Government played around with this to such an extent that it has got everybody offside, including the groups which I suspect would have supported it in the first instance. That can be demonstrated by some of the arguments put forward by the Nature Conservation Council. Initially, it agreed with the project and then it became rather disenchanted with the way that it progressed.

Members interjecting:

The Hon. PETER DUNN: Why have the project? I believe that the Wilpena Pound area and the southern and northern Flinders Ranges are some of the most beautiful parts of Australia. Without doubt they are the two most beautiful parts of Australia. I have visited many places in Australia, and the two most beautiful places I suggest are an area in the north-west of Western Australia called the Bungle Bungles and the Flinders Ranges, particularly as one goes north into the Flinders Ranges. People must realise that the Flinders Ranges extend roughly from Crystal Brook to the north of Leigh Creek, which is more than 550 kilometres. The whole of that area is visually very beautiful. It has sustained industry—particularly the pastoral industry and the tourist industry—for a very long time.

Times are changing and we need to look at what is happening today. In the early days—the period before the turn of the twentieth century—travel into that area was on foot, by camel or by horse. That was sustained until perhaps the 1930s, and today we have better roads. We have a sealed road to the Flinders Ranges—in fact, right through to Wilpena Pound. Today we have motor cars and aeroplanes, so people can get in and out very quickly. Because of that, they can see more and more of the ranges, and rightly so. Why should people not be able to go to the Flinders Ranges and look at what visually excites all our senses? People should be able to go along and have that satisfaction.

Much of the argument that we hear today from people opposing the Wilpena Pound development is, in my opinion, a very selfish attitude. It appears that a small group of people wish to back-pack or walk through the area. I do not deny them that opportunity. It is marvellous if they want to do it. But they should not be so selfish as to deny other people the opportunity to drive through or fly over that area. One of the best ways to look at the Flinders Ranges is to fly over them.

There is much argument about the nonsense of noise, and I have received some letters. I should like to give an example of why I say that. I have a letter from Janet Subagio, who writes to me making a number of points. The point on which I take issue with her is what she terms the issue of noise. She says:

> South Australians go to the area to experience the awe-inspiring land forms of this outback area.

I agree with that. She also states:

> They go there to get away from the urban environment.

Yes, that is very true. She continues:

> A major intrinsic value of the Flinders Ranges National Park is the silence.

That is not true. There is silence in many places, not just in the Flinders Ranges. In fact, the Flinders Ranges are not extremely silent. There is not an extreme amount of silence because there is a great deal of bird life there. In my opinion, it is not exactly silent.

The Hon. Anne Levy: Caw, caw!

The Hon. PETER DUNN: Yes, it has some excellent crows in the area, quite different from the crows who live in this area. I might add that the Minister gave us an excellent rendition of a northern crow just then. The silence is not just in the Flinders Ranges. Miss Subagio goes on to say:

> Silence is something that is becoming increasingly rare in our complex world . . . The 'desires' of people to buzz the area for an aerial view do, and would, destroy this environmental value.

In my opinion, that is just nonsense. I guess that we have to weigh up the silence, if she likes it that way, with the optical vision of having a look at Wilpena Pound. I think that people ought to be allowed to go and see it from the air. It happens now. For more than 10 years people have been flying over the area. It is such a beautiful area that it should be seen from every angle, whether on foot, in the air or from a motor car.

Let us be honest about it. The people who are likely to go to the Flinders Ranges will be fit and well and able to do so. Therefore, most of the people who go there today are families. If one goes and stays there for a weekend, one will note the large number of families that visit Wilpena Pound. That is to be admired and encouraged. However, one sees, if one looks around the world, that many of the people who are touring today are 50 years of age or older. This is because they have been out and earned their pile, so to speak, and they wish to look at some of the rest of the country. There is a necessity to provide them with a different form of accommodation from that of the family which perhaps wishes to have a cheap weekend. It is expensive raising a family today and, therefore, we cannot expect them to expend huge sums of money on accommodation. So, they will caravan or camp, or they might even just take the swag. All these examples are of a relatively cheap way to travel.

However, people over 50 years of age who wish to drive up in cars do want nice accommodation. They want at least a warm bed, a shower and the ability to communicate with the rest of the world. The necessity of this new development in the Flinders Ranges is becoming more apparent. Obviously

the one there now is getting fairly old and needs a little upgrading.

I have observed rather closely the development that has occurred in the centre of Australia in the past eight or 10 years as I travel into that area a lot more than anyone else in this place. For instance, I have watched the development of Roxby Downs. With the nice accommodation and hotel there, I have watched the number of tourists growing. In the past two years, particularly, a considerable number have made that their object, and gone up there and enjoyed the centre.

Coober Pedy is a gem. It is one of the last frontier towns, but I believe it has one of the most magnificent hotels anywhere in Australia. I understand that it is now getting very good patronage. The Desert Cave, run by Robert Coro, is certainly unique, and I guess that attracts people, as well as just going to Coober Pedy as a frontier town. People want those nice facilities.

Within Coober Pedy there is also a cheaper facility, for example, the Opal Inn and the caravan park. There is a range of accommodation in those towns. If one travels farther north to Marla, one will also find a pleasant complex in a harsher climate. It tends to be a service town, but many people stay there. Marla has the capacity to accommodate about 300 people. So, there is this continual development in the western area of the northern part of the State.

I worked on the weekend, while some members and Ministers partied at the Grand Prix. I travelled to the eastern part of the State to Cameron's Corner, which is at the border of New South Wales, Queensland and South Australia. A new complex has been built there for tourists. When I arrived, two people were present, but shortly afterwards 12 people arrived. So, it is obvious that people are getting into the very remote areas in this State. From there I travelled further east to Mungeranie, which is a large cattle station on the Birdsville Track. There is now a hotel even there and some accommodation available for people travelling in the outback. More and more people are wishing to go out and look at the beautiful centre of Australia.

I think that answers the question whether there is a need for accommodation in the centre of Australia. Wilpena Pound obviously comes into that category. It is a long way from Adelaide, and there is a requirement for some good accommodation. The accommodation that has been provided by the Rasheed family has been adequate up to now, but people are more mobile, and increasing numbers of tourists want to see that area.

I will relate a very short story. While in Queensland several years ago, I met an American on holidays who had been to the Gold Coast, Northern Queensland, Yulara (Ayers Rock) and the Olgas. He had travelled into South Australia to have a look at our wine industry. While here, he was told to go and have a look at the Flinders Ranges, which he did. The American gentleman told me that he thought the Flinders Ranges was the best area he had visited in Australia. That is a true outsider's report. If he was prepared to go there, obviously more and more people will want to go to Wilpena Pound, and we will therefore have to provide suitable accommodation and lodgings for those people.

What are the advantages of putting something there? First, the visitor has the advantage of seeing the beauty of the area. Secondly, there is the economic benefit to the State which not only goes into Wilpena Pound and the areas immediately around it but also to the whole of South Australia. In particular, the Hawker council will benefit, and I can demonstrate that by the fact that already two national parks service homes have been brought into the Hawker area in the last week. I understand that four more homes will go up in the township of Hawker, and I guess an even greater number of people who service the Wilpena Pound area will wish to live there.

There has been a fair amount of argument about the development of an airport, and that would be a linchpin in the development of this newer complex. If a good airport is put in so that a reasonable size aircraft can bring in passengers, it will facilitate getting more people into the area, and allowing them to see the beauty of the Flinders Ranges. If the airstrip is to be an authorised landing area it must be sealed and have navigation aids. As well as that, it gives people a view of the area as they are coming into the Flinders Ranges.

There has been a lot of opposition to the airport. For instance, the arguments about noise, the smell of kerosine and other quiet specious arguments could be applied to the Adelaide airport, or anywhere else in the State. However, the fact is that it is a mode of moving people, and it is necessary. I can see only benefit for the north of South Australia if the airport proceeds. There has been some opposition to the powerline. I think the Government has done a reasonable job in endeavouring to cater for those people who do not wish to see powerlines. However, I remind some of these people that, if they go to Europe, they will see a web of powerlines; it is common to see up to 20 powerlines from one position. No-one seems to object to them over there. I think we are being a little bit naive if we believe that putting one single powerline in the area will totally ruin it. Furthermore, many people are living there now, and the establishment of a powerline would indeed facilitate and bring modernity to their living. Most of those people must supply their own power at a very great cost. The introduction of ETSA power will give them a more stable, cheaper and better supply and bring modern living conditions to them.

There have been some arguments regarding retrospectivity. I am not a lawyer, and I do not wish to buy into the argument of retrospectivity, but I want to jog the memories of people who have been lobbying hard to knock the Bill out on that basis.

In 1983 the Native Vegetation Bill was introduced by the Government—and if ever there was a retrospective Bill, that was it. In effect, it took land away from some of those people—including myself and some others in this Chamber—who had purchased it with the intention of developing that land for their sons and daughters, to increase the size of their business, and so on. This Bill immediately stopped any further development of that area. At the time it was introduced, that was a legitimate occupation: you could buy land and the Department of Lands demanded that you clear a section within a limited time.

The passing of the Native Vegetation Act, however, meant that that occupation was illegal. The money expended in purchasing the land was lost outright. Subsequently, some compensation was paid once the land was put into a heritage Act, but that was probably one of the most retrospective Acts I have seen come into this Parliament. Did I hear one voice in opposition to that Act from the green lobby group? No, I did not hear one. In fact, they were all for it, yet when we bring a Bill into this Council to facilitate the development of something far less offensive, in my opinion, we received bucketloads of paper—most of it photocopied and most of it without stamps.

Even the signatures are copied on most of this paper. When I receive a letter which has no stamp and which has been photocopied, I do not believe that I need to answer it, since the people I try to represent cannot come down here and deliver letters to this place; they have to write

them and post them to me. If people do not have enough manners to write to me individually, put a stamp on the letter and post it as everyone else does, I do not believe that I can support their cause.

I do not believe that the Bill is as bad as people suggest. If it were retrospective, it would be making illegal something that is now legal, but that is not the case. This development has been to the Supreme Court, been appealed against and gone to a full court which has ruled that the Government in this case is correct. However, the people objecting to the development have decided to take it to the High Court, and the High Court has said that there is, perhaps, a case to answer but at this point has not made a judgment. The matter is in limbo. It has been suggested that it is retroactive rather than retrospective. If that is the case, I am not particularly perturbed.

I think that the Government, as I have said, has dilly-dallied and played around with this Bill for so long that it has now reached the stage where this action has come up, and it was legitimate. If this Bill is passed, we will have headed off the action in the High Court. Therefore, I believe that by amendment some compensation should be paid to those people who were legitimate in putting a case to the High Court. I think that they were wrong in wanting to take it that far when the Supreme Court twice decided that the case was legitimate.

Another thing I wish to comment about is the Rasheed family, which has provided a service at Wilpena over a number of years. Over a long time, that family has provided good service to the community in an area that is relatively hostile for a number of months of the year. In fact, I was in the area on Monday, and the temperature was about 43 degrees, which is relatively hostile in anyone's language. It was very hot and very close. That family has stayed there and put up a facility which, although it is now a little old and tired, has been used by most of the public.

The Rasheed family has been very charming and good hosts to the people who go up to Wilpena. The family chose very early not to become part of this new complex, for whatever reason, but, having made the decision not to join in initially, they were virtually elbowed out from there on. It is now up to the Government to ensure that that family, who set the business going initially, got the interest going and got tourists to go along, should be compensated. I do not care how the Government does that, but a compensatory factor needs to be built into this new Bill so that the Rasheeds go away feeling comfortable about the fact that they have in the past provided a good service and that they have not just been shovelled out.

A number of excuses have been put up by the anti-development lobby, and I should like to run through a few of them, as some of the arguments appear unsustainable. The first is that the project is unfinancial. This is a private enterprise project: the people who are building it are going into it with their eyes and ears open and know full well that, if the project fails, that is their loss. That is how it should be. If they fall over because the project is unfinancial or because they have not done their sums correctly, that is their problem, but they are the ones who want to develop the project. I have no argument about a private enterprise company doing that.

Had it been the Government developing the project, I would have looked at the matter very carefully, particularly as this Government does not often do its sums and would probably have made a mistake. This, however, is a private group and, if the project becomes unfinancial, or does not pay, the group will have to wear the loss and there is no necessity for the Government to pick up that loss. If no-one else wishes to take up the project, there is nothing to stop the Government putting a bulldozer through it and reafforesting the area. That would involve no loss to the Government.

The second very strong argument that is used is water usage. I suspect that the project will not use much more water than does a large station in the area. If a large station carries 15 000 to 20 000 sheep—and there are stations in the area carrying that many—it would use about 30 000 to 40 000 gallons a day. I suspect that the project will not use much more water than that, anyway, so the drainage would be the same.

I do not believe that the water usage will be any greater than that necessary to run a station that may have been there in the past. I know that there has not been a station there for a long time, but in the early days many sheep were run in that area as it had a lot of natural water and spring water. Those two arguments are not terribly convincing. The fact that it will bring a lot more people into the area is another argument. I can understand that people will be a little concerned about that, although there are a couple of ways of offsetting it.

I do not believe that the numbers planned in this project are much greater than those who go into the area now. Some four weeks ago I spent a weekend at Wilpena Pound and there were in the order of 2 000 people in the caravan park then and probably another 150 people, including those servicing the area, staying in the Rasheed's residence. There were a considerable number of people in the area.

If the amendments to this Act are passed, it is likely that there will perhaps be some 3 000 people in the area on any one day. That is not a great deal more. It is approximately a 30 per cent increase on the number there now. They can be accommodated by the present road system. That, by the way, needs upgrading. There is no point in having a number of people in the area if all day long you are driving behind a bus that is covering you with dust. I believe the area should be discreetly sealed. The roads need not be much wider than about 12 feet. It needs to be done where there is soft soil, where the area is likely to be dusty.

The traffic generally travels very slowly in the area because most people are observing the beauty around them, so we do not need highway-type roads, we just need sealed roads. One of the reasons for that is that if you drive on a dirt road and stir up the dust, the trees get covered in this dust and their process of breathing and so on is impaired and they look rather poorly. That can be demonstrated if you drive to Wilpena today: where there is sealed road the trees are very fresh and virile, but if you go into areas where the roads are dirt you will see they look rather dowdy and set back. I believe there is a necessity to seal some of those roads. Obviously, you cannot seal the bottoms of creeks, but the creek gravel in those areas does not create dust.

In the Aroona Valley, once you are outside Parachilna Gorge and on the road back to Beltana, the road has been done up down to Wilpena Pound. It is a very good road, but it still needs a thin sealing of bitumen to make it acceptable and to make the area retain its pristine beauty. There is a road that goes from Beltana to Wirrealpa and then down south and it goes back past a mine that mines a semi-precious stone out of the area and comes back to Wilpena Pound. That road is very dusty and, in time, I suspect it will be sealed as well.

So, there is a need for some change in the area, there is a need for extra activities to be taking place, and this will become one of the highlights and one of the most visited places in Australia, if this project gets up and running. If it

does not, we will be seen again to be a State that cannot control its direction or its destiny.

The development itself is not a large one. I presume that in the future if it is a success there may be reason to enlarge it, but that can be done discreetly. If you look at the plans, it is clear that it is a low development; it does not, in my opinion, appear to alter the vista in any way and it is relatively discreetly done. As to the loss of a few trees in the area, most of the trees are callitris pine, commonly known as native pine, which grow in great profusion in the area. I have read some articles saying that these trees are 200 years old. I do not deny that; they probably are. You only have to go into the area at the moment after a couple of good seasons and look at the many millions of trees that are now growing anywhere where there has been some soil disturbed. They do regenerate very rapidly in the area.

There is a different argument, I suggest, for Eucalyptus camaldulensis, the River Redgum, which is, I guess, the signature of Wilpena Pound and the Flinders Ranges area. However, there is not a requirement in this project to knock down any of those trees. It has been suggested a the lowering of the watertable may in fact cause some of them to die. I would have thought, if that was the case, that during some of those very long drought periods we have had in the past there would have been evidence of that, but there is no evidence of it.

However, there is evidence of disturbance around these trees by people camping in other areas of the national park, who would have been better off camping in one central location. This project will allow that. The camping that happens in all of the creeks at the moment is not only unsightly, but people's rubbish gets left there. It may be a beautiful area and you may wish to go there, but it is not terribly acceptable today that you have your washing hanging on the tentpeg and you have a toilet set up, while people around you are wishing to look at the lovely trees and so on. If one wants to do that, I suggest you go further afield, because this is one of the lovely areas.

If you want to camp like that you can go further north, perhaps to Burnie Bore, perhaps the top of the Flinders or wherever, but in this area it is my opinion that these people camping should be made to camp in the area where this development is going. I see that as one of the advantages of this development.

The Hon. Robert Lucas has outlined the statistics, the water usage, the number of people, the size of the project, and has done that very clearly. I do not wish to repeat it, except to say that I perhaps look at it from a different angle, as one who goes up there fairly regularly. I have been there a lot of times and I think it is a beautiful area. I do not wish to be selfish about it and want to make it possible for many people in this State or outside of the State to visit. If it attracts overseas visitors to South Australia, who will spend their money here and help our standard of living, then I am all for that.

I believe the project should go ahead as soon as possible. The project has been stalled and it has tripped and skinned its knees a few times. The Government has messed around with it. There were avenues available to have it up and running by now, but it did not take that opportunity. It has now introduced this Bill to facilitate it. It is possibly sad to have to do it that way, but it is a fact that it needs to go ahead. For those reasons, I support the Bill.

The Hon. J.C. IRWIN: I will be brief in my contribution to the debate on the Bill, but I feel I have a responsibility to make at least a short contribution at this stage. Of course, there is no real reason for each of us in this place to talk on every issue before us. There is no real need to always indicate a preference for voting prior to a vote. If the lead speaker for the Opposition has laid down the Opposition's stance on a Bill, there is no real need for us to go over all the arguments for and against, again and again. So, I will not do that, but I will address one brief issue.

Hansard shows how all of us vote on any particular issue. In both the other House and in here the debate has been lengthy, amendments have been made in the House of Assembly and amendments will no doubt be made in this place. The Bill before us now is the product of many months of debate and change. There have been many twists and turns and many changes of position on the part of the Government and the Opposition. The debate has engendered great interest from all sides, from many interested groups and individuals. Members have been subjected to quite proper and varied advice from many quarters. Quite frankly, I find this a very healthy situation. I am one who believes firmly that the best possible result comes from argument and counter-argument. I am very quickly learning that, for every argument, there is usually a good counter-argument.

I have enormous respect for those of my colleagues who have struggled with the many issues that have been raised in the debate, just as I have respect for the individuals and groups that have used every lobbying tactic known to halt the progress of this legislation. For every person who has lobbied me with strong views against the project, there has been a strong lobby for the project. I, like others in this place, am in the classic position where in the end I alone must make up my mind as to where I go. My conscience battles have been within the structures of my Party; some have been won and some have been lost. I acknowledge that a number of my Party colleagues have compromised their strongly held views in order to join the majority view of my Party on the Wilpena issue.

This is Government legislation and if and when it passes in an amended form there is and will be a very heavy responsibility on the Government to make it work for the benefit of the people of South Australia, the visitors to the Flinders Ranges from all over the world and, in particular, for the continuing healthy environment of the area. Many people will be watching the progress; many people will be waiting to say, 'I told you so.' There are many things that I do not like about the process that has produced the project and this legislation but, on balance, I believe I should support the second reading.

[*Sitting suspended from 5.54 to 7.45 p.m.*]

The Hon. L.H. DAVIS: It is perhaps trite to say that the issue of Wilpena has been pounded to death.

Members interjecting:

The PRESIDENT: Order! The Hon. Mr Davis.

The Hon. L.H. DAVIS: One sentence and I have brought the Council to its knees! It is true to say that there has been a good deal of emotion and hyperbole perhaps inevitably associated with this debate. Often that emotion and hyperbole has run well ahead of fact and logic.

I am firmly in favour of development of Wilpena, although I must say that many raspberries can be awarded to the Government in its handling of this issue and very few bouquets. Sadly, and again perhaps inevitably, the debate on Wilpena has degenerated into a categorising of those who are seen to be for the environment and those who are seen to be anti-environment. Of course, that is a gross over-simplification of what is undoubtedly a very important issue.

For my part, I would say that probably in the decade or so that I have been in this Parliament issues such as heritage and the arts have tended to attract little support and probably in that time only a handful of people have expressed a genuine interest and involvement in those areas. I would like to think that I was one of those people who, over a period of time, has consistently argued in favour of heritage and culture. For example, I have spoken very strongly about the deterioration and the quality of the built form of Adelaide. I have expressed concern about North Terrace, which I have described as a kilometre of culture, and I am pleased to see that that has been incorporated in Government advertising North Terrace. I have expressed concern about the quality of the ASER development and the inappropriateness of the skyline of the Hyatt. I have also discussed the potential of the heritage towns of South Australia and the potential of main street programs. I have argued that South Australia has not been a leader. We have been followers when it comes to our regard for and attitude to heritage. One can go to many European cities and to North American States and find a much more civilised and sophisticated approach to heritage and matters such as the Wilpena Pound development.

I should say from the outset that the Government has perhaps, to some extent, brought a problem upon itself with respect to this matter. I have been saddened that the Rasheed family, who have become legends in their own lifetimes at Wilpena Pound, were not involved in some way with the development of this tourism project. Again, I was on the record as saying that some two years ago. I think it was unfortunate that the Rasheed family, who were so well known as to be used with Wilpena Pound as a backdrop for a national advertisement for a well known brand of motor vehicle were left right out of discussions on Wilpena. In fact, I can well remember going with colleagues from the Industries Development Committee to inspect in 1986 what was then the secret site for the proposed tourism development in the Wilpena Pound area. We looked at that site because there was perhaps the possibility that, in time, the proposal might come before the Industries Development Committee for assistance. In fact, we were looking at that development on our way through to other tourism developments which were the subject of interest of the Industries Development Committee.

At that stage the Rasheeds simply did not know about the site, so I felt badly about that, and I suspect that if the Rasheeds had been involved from the outset some of the criticism and hostility that has developed would not have reached the heights that it has reached in recent months.

I also believe that the Government did not handle the appointment of Ophix as the developer in the most appropriate fashion. Certainly, they called for expressions of interest, but that is altogether different from calling for tenders for what was a very sensitive and important tourism development in the Flinders Ranges. That, understandably, has attracted criticism and, indeed, some suspicion and hostility. Also, the fact that there has been poor communication on the part of Government with respect to the development has not contributed to public understanding of the facts of the case.

Having said that, I believe that the project can be justified although, of course, I can appreciate that there are arguments about the scale of the project. I believe that tourism can breathe life into rural South Australia. It is labour intensive; it has a dramatic multiplier effect; and I think that in many ways it is easier to approach the debate in relation to Wilpena Pound by saying, 'Well, if we do not accept a proposal of this nature, what are the alternatives?'

Let us consider those alternatives. They have been canvassed by opponents of this project. One option, of course, is to place it either in Hawker, just outside Hawker, or adjacent to the Flinders Ranges, but away from that Wilpena Pound area. Another option is to have boutique developments scattered through the Flinders Ranges at the little villages and hamlets—Blinman and similar places; in other words, to moderate the impact of a large scale development in one area.

Another alternative that is being canvassed is to upgrade the present development. A further option, of course, is to leave what we have and not do anything.

Let me canvass those options. It is quite unrealistic to develop a major resort around Hawker, or on the Hawker side of the Flinders Ranges. The people of Hawker are very proud and supportive of the project, as has been indicated in a letter from the Hawker District Council which I received six weeks ago, and which was signed by Mr Spiers, the Chairman of that district council. They recognise the importance of such a development and the benefits that would flow through to their region. It is not unfair to describe the town of Hawker as fairly unspectacular. There are certain historical aspects which I find interesting—the upgraded railway station, for example. But a major development in Hawker would not attract interest. It would be unrealistic to expect it to excite visitors. It would also be unrealistic to put it on the Hawker side of the Flinders Ranges because it does not have the atmosphere or the beauty of the Wilpena region.

Some people point to Yulara and say that it is in the middle of nowhere and that it is well away from Ayers Rock, but that is a different situation altogether. Yulara is in a place which is in the middle of nowhere and it would be highly inappropriate to put it adjacent to Ayers Rock.

As regards the argument about placing the development where it is, I point out that Cradle Mountain, which is a world heritage area in Tasmania, has a lodge and cabins which are absolutely adjacent to the national park. In fact, I visited the area only last year. It is a moot point where the national park boundary starts and ends. In fact, it is only a few metres outside the national park boundary, as I understand it; the lodge is adjacent to it, and the visitor interpretative centre, which has been completed at a cost of $1.5 million, is within the park.

One of the points that has been lost in the heat of the argument is the chronology of events that led to the choosing of this site for tourism development. The fact is that there had been criticism of the existing facilities at Wilpena Pound for almost a decade. Studies undertaken in the early 1980s showed that the majority of visitors to the area were dissatisfied. The Department of Tourism studied this matter in 1985. As a member of the Industries Development Committee, I was aware of that fact five years ago. The Wilpena Station was selected as a preferred site for an upgraded tourism report. Wilpena Station was purchased for addition to the national park in 1985, and the Wilpena Station lands were made part of the Flinders Ranges National Park in June 1988.

It is worth remembering, as the second reading explanation points out, that this area, which is now the subject of intense debate, was a homestead. It was a property used for agriculture for 130 years. There was nothing remarkable about it in the sense that there were exotic plants there; there was erosion and there were rabbits. I have some sympathy with the Government, because it is damned if it does and it is damned if it does not. If it had not excised this portion of land and taken it into the Flinders Ranges

National Park, would we be here debating the issue? It can be argued that the Planning Act would have been triggered and we would have a different form of debate on our hands.

I should like to think that it was excised for a national park because, by bringing it within the national park and putting specific environmental controls on the development of this tourism resort, it was recognising the fragility and importance of the area and the positive benefits that flow from allowing people to enjoy the fauna and flora and the vistas and to respect this national park, which is unique to South Australia. That significant fact has largely been ignored in this debate.

The other option that I have mentioned is that perhaps it would have been more desirable to have boutique developments scattered through the Flinders Ranges. That is unrealistic, uneconomic and impractical. Quite clearly, we have more control of tourist movements if we have them in the one spot. We are more likely to be caring for the environment if we bring everyone together in the one area as distinct from developing four or five smaller tourism destinations.

There are practical and economic reasons associated with this argument against the boutique development proposal. It is difficult in far-flung regions of South Australia to attract labour of a calibre that will be prepared to serve in quality tourism resorts. I have had some experience of this in the sense that, as colleagues will know, my wife operates a bed-and-breakfast facility at Burra. Whilst we have been very fortunate with the quality and the commitment of those who clean and maintain the house and garden, it is not easy. If it is difficult in Burra, a town of 1 200 people with well-established amenities, consider how difficult it would be in Blinman.

Clearly, if we are to attract skilled labour—people with a commitment to tourism and hospitality as a profession—we need a facility which will attract and retain them. We need amenities which will be appropriate. We need an ability to service the families of those people. Clearly, Hawker, as the nearest major centre, will be able to benefit in that sense by providing educational and other facilities.

Finally, the argument against the smaller developments is the economic return. It is difficult to make big money or to make an economic return if we are to have smaller developments. It would certainly militate against convention trade, for example, which one expects may be an aspect of a development such as we are foreshadowing in the Wilpena area.

I have already mentioned the environmental argument: that we are more likely to be able to control the environment by developing a tourist facility with camping, dormitories and hotel accommodation on the one site. Certainly, there are savings in infrastructure costs if they are in the one area. My wife and I recently attended an important conference in Queensland on the subject of art, architecture and tourism, highlighting the important synergy which existed between them.

The conference was predicated on the belief that in the decade ahead these important aspects will come to be regarded as vital for tourists visiting Australia, and that we have the emergence of the so-called cultural tourist. One of the key speakers at this conference was Sir Frank Moore, who is the Chairman of the Australian Tourism Industry Association. He was asked, 'Do you think there should be developments in national parks?' and he gave what I thought was a textbook answer when he said, 'There is no textbook answer to a question such as that.' Further, he said, 'I do not believe that locking up national parks and keeping people out is the way to promote national parks and to promote respect for national parks.' I agree with that absolutely. I accept that, as a general principle, it is not a good idea to have a development within national parks, but that argument can be rationalised by pointing out, in this case, that the said land had not been part of a national park until recent times.

I have canvassed the arguments that have been raised as options to the proposal before us, except one—to upgrade the existing Wilpena Chalet which, of course, was first opened in 1947. It is 43 years old, and does it show! It is tired. It is not a first-class facility; it is pleasant family accommodation. But it would be quite unrealistic to expect that area, which is badly degraded, to be upgraded. It would be uneconomic; that is an inappropriate option.

The other matter that I mentioned in passing—and I accept it is not entirely relevant to this debate—is that we tend to become precious and parochial when we debate Wilpena, and in saying that I do not want to raise the temperature in the debate where the heat has sometimes crept into the kitchen. I want to make the point that of all the States of Australia I believe South Australia is the only one which does not have a first-class resort development. I stand to be challenged on that argument, but I think it would stand the test. There is not one first-class resort development.

Recently, I went to Kangaroo Island where my wife had been associated with the judging of the 1990 Tourism Awards. We visited some of the facilities, which had been awarded prizes on that occasion, and also some other areas of Kangaroo Island that I had not visited for some time. I was impressed with the quality of the developments in Kangaroo Island in recent years, and the enormous potential that exists there. Again, quite clearly there is a great need for an appropriate, sensitive and sensible resort development on Kangaroo Island and, in this case, arguably outside the national park because the boundaries of the Flinders Chase and the outside area are really not as obvious as they are at Wilpena where the topography quite clearly delineates the Flinders Ranges from the fairly barren plains that exist before one arrives there.

The important and common element about Kangaroo Island and the Flinders Ranges is that the National Parks and Wildlife Service rangers—for whom I have a tremendous admiration—in both cases believe that resort development is the best way of controlling the increasing tourism. Those people are incredibly dedicated. I have the greatest respect for them, and anyone who would argue against their not having a sensitivity and an understanding of the fauna and flora around them would be on the wrong track; barking up the wrong tree. I have spoken to rangers on Kangaroo Island, and in recent years to rangers in the Flinders Ranges who argued that point strongly. I respect that argument. As I have said, I think we have become somewhat precious in our attitude towards this matter.

Let me give an instance of a world heritage area, Cradle Mountain Lodge in Tasmania, where at least 100 000 people are attracted annually to that precious wilderness area. The lodge facility has 370 beds. There are 77 cabins in all with spas, double beds and bunks. There is a camping ground, which is being expanded. Stage 1 has 200 camp sites, and it is being expanded with power to at least 300 more sites in stages 2 and 3. That will receive Federal funding because of its importance as a world heritage recognised region. I had the joy of a hike through the park with a ranger. Quite frankly, I see that as the way the Flinders Ranges will ultimately go because I believe the focus of this debate is, somewhat ironically, on the development itself. However, never mind about the degradation of the park by the camp-

ers, who empty their portable toilets into the creeks, who chop down the trees for firewood and who commune with nature in their four-wheel drives and leave their rubbish behind. Just because people do not stay at the Wilpena Chalet or the proposed development is not to say that there will not be damage to the environment because there will still be day-trippers.

Of course, one of the dilemmas in this important debate is that the data on visitations is fuzzy—it is not easy to understand. I think members on both sides of the Chamber would accept that 60 000 to 75 000 visitors to the region seems about right at the moment. However, there is certainly some doubt about the quality and accuracy of the data. I have no hesitation in saying publicly that ultimately the Flinders Ranges, given the unique nature and sensitivity of that environment and the inexorable build-up of the pressures of tourism, may well reach the stage already reached in Frazer Island, Queensland, or in some of the Victorian national parks, where the only way to enter the park is by permit. That may be a debate not for a future generation but within this decade—who knows. I do not resile from a statement like that. It is important to recognise that there should be controls on the numbers going into the park if the park is seen not to be coping. I hope that if this upgraded development goes ahead, the Government will ensure that there are sufficient gauges and monitoring devices to protect our environment, to record the damage being done to the environment and to act quickly to correct any degradation of the environment.

As I have said, the ultimate device is a permit, and it may well be that people will pay for that permit. I do not see anything inappropriate about that. We do not find it inappropriate to charge people admission to the Cleland Conservation Park. As an aside, I must say that I am somewhat bemused by the fact that we are currently spending $4 million upgrading the Cleland Conservation Park with a restaurant as well costing $1 million. However, there has not been a peep of disputation about that fact. I would argue that there is an analogy between the Cleland Conservation Park and the Flinders Ranges National Park. (Incidentally, it is now called the Cleland Wildlife Park. That is a matter which I have debated and canvassed for a number of years, and I am pleased to see the Government has decided to call it something more appropriate and obvious for visitors).

Both Cleland Wildlife Park and the Flinders Ranges National Park are educational tools that will teach young and old people alike to respect the environment in which they live. I believe that sensitive caring and sharing will ensure the preservation of what is quite clearly a unique cultural asset. If we do that, we will fulfil what I style the three Es of the Flinders Ranges: education (of the people visiting the Flinders Ranges), enjoyment (of the fauna, flora and vistas of the great Australian outback) and, of course, most importantly, environment (protection and respect for the environment).

The size of the development is covered in the Bill by clause 3 (4) which proposes a maximum of 2 924 overnight visitors, although the Minister has the power to increase the capacity of the facility to 3 631 under clause 3 (5) subject to certain conditions. It is quite clear that that clause has been strengthened by amendments in another place, because the Minister cannot increase the capacity without a resolution of both Houses of Parliament approving the increase and ensuring an adequacy of water supply. The Minister must also be satisfied about the environment if an increase is proposed.

Clause 3 provides a formula, a mix of hotel, bungalow, dormitory, caravan and camping accommodation. It can be argued that the mix is critical and can be significant in terms of the use of water, but my colleague the Hon. Robert Lucas has canvassed the water issue at some length and I do not wish to develop that argument. I continue to argue that a number of the people in the hotel at the resort could well be older and more sedentary. We have an ageing population: people are retiring earlier with larger superannuation payouts. There is a very strong argument in tourism circles that that will be the great growth area in tourism in Australia in this next decade.

The Hon. T.G. Roberts: It already is.

The Hon. L.H. DAVIS: As the Hon. Terry Roberts points out, that is already the trend, and I argue that it will continue to be the trend. Obviously, one has to expect the developer and operator to have regard to the economics of the development, so there is a balance between what is sustainable from the point of view of the environment and from the economic argument. I accept that some sensible flexibility is built into the Bill.

I want to develop the point about trends in tourism: the cultural tourist who is seeking the experience. To that end, the Government is providing not only for visitations from Adelaide but also from interstate and overseas. I welcome the proposal to develop an airport near Hawker, with $1.1 million from the State Government and $2.5 million on loan to the Hawker District Council. I am pleased to note that there has been some sensitivity with regard to the environment and that the airport will be designed specifically for a BEA-146 jet which, I understand, is the only jet permitted to operate at Adelaide airport during curfew hours. I have been told that the noise is not dissimilar to the twin-engined light aircraft which already operates into Hawker. That jet has a capacity of 90 people.

There is also sensitivity with regard to electricity. In various ways, we all have an aversion to stobie poles in the wrong places, and the Government has indicated that it is prepared to underground from Yulpara near Hawker to the project site. Ophix will spend $2.6 million on the line, and the Government will pay $500 000 towards the cost of undergrounding a 10 kilometre stretch, which means that all the line within the Flinders Ranges National Park will be underground.

In that respect, there has been some sensitivity to the environment, and that will encourage visitors. Some of those visitors will come in through that airport, although the vast majority will travel by car. It is important for the Government to recognise that visitors can come into the Wilpena area in three ways. They can come from interstate through the Riverland which, in itself, is an important tourist destination. That, again, points to the desperate need for the upgrading of the Morgan-Burra road, which joins those two important regions together.

Visitors can also go through Burra or they can travel through the Clare Valley to Port Augusta, which has the Wadlata Interpretive Centre. There is the Pichi Richi Railway and various attractions in that area such as Melrose, Wilmington and the delightful country to the south of the Flinders Ranges.

The upgrading of the airport at Hawker will enable the north-south link to be developed, so that, after talk for a decade of developing the north-south tourism link, it will finally become reality. People from interstate or overseas will be able to fly into Hawker or drive to Hawker and fly to Yulara. It may even be possible to have side trips to Roxby Downs, the largest underground mine in the world.

People who believe that the development is too optimistic are being short-sighted. The facility we already have is outdated, inadequate and, quite clearly, does not attract people back again, whereas this project will have the capacity to do that.

Finally, the development itself was designed by Woodhead Hall, arguably one of Adelaide's very top architects. The building is single-storey outback homestead style, with verandahs, wooden posts and pitched corrugated iron roofs. The hotel will have private bathrooms. There will be some two-bedroom suites. Some of the rooms will have kitchenettes, and others will have complete kitchens. The style will be uniquely Australian. The cottages will be near the hotel but separated by the unique cypress pines. There will be one and two-bedroom cottages, each with a kitchen and stove, again furnished in an Australian style.

Then there are the shearers' quarters which are catering specifically for backpackers and groups of up to four people. These facilities are for value-conscious travellers who, at the same time, like some comfort and modern facilities. Then there are the coach, camping and caravan areas, separate from the main hotel and cottage areas, and that is going to provide for powered caravan sites and unpowered camping areas.

The camping grounds will have small groupings separated by natural barriers of planting and natural mounding, and the amenities are going to be strategically located and there is sensitive treatment of sewerage and its disposal. The recycled water will be used, in part, for the woodlots and there is, of course, going to be adequate rubbish collection. Quite clearly, there has been a good amount of thought and discussion concerning the need to be sensitive in every way to the environment. I quite freely admit that the public pressure has undoubtedly assisted the Government focus on these important areas.

The Hon. T.G. Roberts: I am glad you stopped. I've run out of money.

The Hon. L.H. DAVIS: Finally, what of the developer and the operator? Ophix, as I have said, is a company which had this development handed to it on a plate, and it was its good fortune, although of course these are very tough economic times. The one thing that can be said, at this time when many Australian assets are being bought by foreign interests, is that both Ophix and the operator, All Seasons Resorts, are Australian-owned. Ophix have been involved with the ski lift company and the resort at Falls Creek. It was the business and commercial manager for the Perisher Ski Tube, which was Australia's first privately owned public railway system, established in 1984-85 within the Kosciusko National Park. So they can claim some background in development, although, of course, nothing quite like this.

As far as All Seasons Resorts is concerned, it is a privately owned company which has been established for 12 years and in the last three years have risen from number 42 to number nine in Australia in terms of rooms under management. This year it is operating 10 resorts in all States of Australia, including the Red Centre Resort in Alice Springs, the Cairns Rainforest Resort, the Atrium Hotel in Darwin and Dolphin Heads Resort in Mackay. This is a three-and-a-half to four star resort; it is not luxury accommodation, but it will be accommodation designed to be within the reach of most people. Other types of accommodation, of course, will offer cheaper options for people who prefer not to stay, or cannot afford to stay, in the hotel accommodation. So I believe that All Seasons Resorts is an acceptable operator for the proposed development.

There have been many matters of debate in this protracted and often heated discussion on the Wilpena Pound development. I think it is a lesson in communication and negotiation for the Government for future occasions, because certainly it has not handled this development well. The people of South Australia should be reassured that if the worst does happen and the development does not succeed, the lease makes it quite clear that the Government can resume the development and, presumably, can on-lease it to another party.

I accept the proposition that my colleague, the Hon. Robert Lucas, has put that even though there may well be a debate about whether this legislation is retrospective or retroactive, and I happen to believe it is retroactive, no doubt the Australian Conservation Foundation has been disadvantaged, in a sense, with its current appeal to the High Court. I think it is a small price to pay in the scheme of things to recognise that fact, to be charitable, and to accept the amendment which will be debated in the committee stages.

There have been inconsistencies in the argument on the part of the conservation groups, as there have been inconsistencies on the part of those people arguing in favour of the development. I accept that this proposal is going to be beneficial for tourism in South Australia. I accept that it is sensitive to the environment. I believe that it is of a scale which is appropriate to the area and I believe that it offers an attractive range of options for prospective visitors from both overseas, interstate and locally.

It is not really, ultimately, for Parliament to make a judgment as to whether it will or will not be commercial. I can remember debating the Roxby Downs Indenture Bill, which of course provided much Government financial assistance for the infrastructure development of Roxby Downs. At that time there was much debate, particularly by the Democrats, against the development on the grounds that it would not be commercial. I do not believe it is for Parliament to look behind that. In fact, there is a contradictory argument on the part of the opponents of the Wilpena resort development. On the one hand, they say there will be too many people and it will spoil the environment, the Flinders Ranges will be raped by this large number of people trampling through the environment as a result of the development. On the other hand, some of these same people argue there will not be enough people to make the project economically viable, that the project is too ambitious. They cannot have it both ways.

I believe that, on balance, this is a sustainable development, notwithstanding the tough economic times in which we live. There is an onus on the Government to ensure that the infrastucture necessary to support this development is given high priority, whether we are talking about adequate schooling facilities at Hawker, support for the township of Hawker or the development of the roads and other tourist facilities leading to the Flinders Ranges, and, of course, most importantly, the monitoring of the effect of this development on the environment. I support the second reading.

The Hon. DIANA LAIDLAW: Unlike my colleagues who have spoken in this debate before me, I do not support this measure and I believe very strongly that the Bill is unprincipled, it is unnecessary and it is unreasonable. Some six years ago in March 1984 I recall using exactly the same, or somewhat similar, words in a motion I moved in this place after the Government decided to use section 6 of the Planning and Development Act to expedite the demolition of the heritage listed A Block at Yatala Labour Prison. At that time I was angry—as is the case with many groups who are angry about this proposed project at Wilpena—that the Government had thumbed its nose at the very same plan-

ning and development provisions that it demands by the rest of the community to follow. At that time I indicated:

The need to ensure that redevelopment work proceeding at Yatala did not warrant an abuse by the Government of accepted legal processes. Essentially, throughout this whole sorry saga the Government appears to have accepted without question the notion that, regardless of the consequences of its actions, the means to an end justifies that end.

Today I believe that, in respect to the Wilpena project, the Government has continued to adopt the approach that the means to an end justifies that end. I do not believe that, as legislators and as honourable members, if we are to represent the title that has been bestowed on us, and as people who should be setting an example for the rest of the community, we can accept an approach where the Government thumbs its nose at the legislation which the Parliament has passed and which it expects the rest of the community to follow. When it is caught out adopting other measures it then proceeds with the development and asks Parliament to validate past actions. Personally I find that an abhorrent practice and it is one that I cannot condone. I recognise that in making such a statement I am out of step with the rest of my colleagues but, fortunately, my Party allows me to express my strongly held personal view in this regard.

There are, and always have been, further options for the Government to explore and to utilise if it wished to proceed with this project. I will name just a few. Section 50 of the Planning Act was deliberately placed in that legislation by this Parliament for situations such as the Wilpena project. For the record it is worth noting that section 50 of the Planning Act provides:

50. (1) Where the Governor is of the opinion that a declaration under this Division is necessary to obtain adequate control of development of major social, economic or environmental importance, he may, by notice published in the *Gazette*, declare that this Division applies to—

(a) development generally within specified parts of the State; or

(b) specified forms of development throughout the whole of the State or within specified parts of the State.

Section 50, as I indicated, has been provided by this Parliament for cases such as this if the Minister wished to use it to provide for a development such as Wilpena.

Of course, there has always been the option of enabling legislation and the Parliament has accommodated the Government with enabling legislation in the past in respect of the ASER development, when we passed an indenture Bill. Whilst there were some, including myself, who took exception to such a measure, that is an option for the Government. On that occasion it was passed by this Parliament and, no doubt, it probably will happen again. Those two options—section 50 and enabling legislation—were available to the Government to use some five years ago and they are still available today. However, the Government has not chosen to use either of those measures.

I suppose there is a third option. The Government claims that it deliberately moved to put part of a farm into a national park so that it could proceed with this development. Of course, there is the option of excising all or part of that portion of land incorporated in the national park, so that the planning and development laws that must be followed by every other developer in this State would apply in respect of this development. Of course, in terms of excising any portion of a national park, a Bill would have to be accepted by both Houses of Parliament.

Those three options are available to the Government and yet it has never chosen to exercise any of them. It infuriates me that, having made a deliberate policy decision not to exercise any of those options in the Act at the present time and then having found that it has been challenged in the Supreme Court and that the High Court has agreed to hear an appeal on the measure, the Government now comes to this Parliament and turns over the responsibility to all members of Parliament to accommodate and validate the Government's own actions in this matter.

I also find it offensive that we are now presented with a Bill that seeks not only to validate past decisions but also to exempt the Government from further provisions of Acts of Parliament which it expects other developers to cope with and to deal with. I refer specifically to section 9 of the Bill, which provides:

(1) The Planning Act 1982, and the Native Vegetation and Management Act 1985, do not apply to the acts or activities referred to in sections 3, 4 and 5 and those acts and activities may be undertaken in accordance with this Act notwithstanding any other Act or law to the contrary.

(2) The grant and acceptance of the lease did not constitute division of an allotment within the meaning of the Planning Act 1982.

(3) The National Parks and Wildlife Act 1972, does not apply to, or in relation to, the killing, injuring or molesting of a protected animal in the normal course of undertaking the acts or activities referred to in sections 3, 4 and 5 by a person to whom the Minister has granted a permit under this subsection.

So, the Government is asking us not only to validate past decisions that it has made but also to exempt virtually *carte blanche* that permit holder from the Planning Act, the Native Vegetation Act and the National Parks and Wildlife Act. It is therefore asking us to exempt, *carte blanche*, the permit holder from not only the responsibilities but also the penalties that apply under those Acts for misdeeds on the part of any other individual or company in this State, which misdeeds would not be tolerated by the Government. In that respect I believe that the provisions in section 9 are also offensive. They are equally offensive in the precedents that they set. I share the same concerns with respect to the Bill as a whole.

The Liberal Party has received considerable correspondence in relation to this Bill. My colleagues have chosen not to refer to a great bulk of this correspondence. So, perhaps, I can set the record straight by referring to at least some of those people who have taken the time and the trouble to write and also who hold very strong views, not necessarily about the merits of the project but about this Bill and the provisions of the Bill.

I refer particularly to correspondence from the Joint Industry Committee on Planning (JICOP). JICOP wrote to the Premier, and a copy of the letter has been forwarded to the Leader of the Opposition. I also have a copy. The organisations involved in JICOP are the Institute of Architects, the Master Builders Association, the Housing Industry Association, the Association of Consulting Engineers, the Real Estate Institute, the Urban Development Institute, the Institute of Quantity Surveyors and the Institute of Valuers. That is a pretty august group of associations in this State and it is a great shame that neither the Government nor the Liberal Party, as a whole, has taken account of their views. Those views are as follows:

The Joint Industry Committee on Planning supports the proposed Wilpena development but is firmly opposed to the retrospective legislation to bypass the Government's own rules. JICOP urges you [the Premier] to withdraw the Wilpena Station Tourist Facility Bill at present before Parliament.

That action, of course, has been ignored, and I emphasise that they are not making comment on the development which has been the focus of most contributions in this debate today; they are focusing on the Bill that is now before us.

I am prompted to make a few remarks about tourism generally, in the area. I hold responsibility within the Liberal Party for the tourism portfolio but, even before having been entrusted with this task, I was conscious of the need to

improve accommodation options within the area. Over the years I have been a frequent visitor to the area. Principally, I have camped in various parts of the Flinders Ranges, from Melrose to south of Beltana. On occasions I have used the accommodation of The Mill at Quorn, the Wilpena Chalet and Arkaroola.

As I said, there is no doubt that, in terms of accommodation, there is a need for facilities to be upgraded, and I strongly support that move. In respect of this project, I am concerned that the Government is focusing on Wilpena as if that is the entire Flinders Ranges. That is just not so. As I have indicated, the area extends from Crystal Brook, Melrose and Wilmington in the south through Quorn and Hawker, and up to Beltana, and to Arkaroola in the east.

The Liberal Party's policy for the tourism development in the Flinders Ranges area recognises that it is a region and not just one site. We have acknowledged the need to upgrade accommodation throughout the area, and the policy released in November last year by John Olsen, then Leader of the Liberal Party, indicated very conditional support for stage 1 of the Wilpena project. But, as I emphasised, the Government has concentrated all its efforts and resources on one area of Wilpena Pound as if that is the entire Flinders Ranges. Nothing has been done in terms of helping and encouraging tourism operators in other areas to upgrade their facilities.

Yet, that was the recommendation of the Government's Cameron McNamara Report, commissioned by the Department of Tourism in 1986. That report, which was prepared for reference material for a management plan, states in section 7 (3) in terms of programs and priorities as follows:

> The identification of major issues concerning tourism development in section 5 provides a basis for developing corrective approaches to improving the tourism product in the Flinders Ranges. However, a mere improvement of the existing situation is not sufficient to raise visitor levels and encourage new development. For a new phase of expansion to be achieved, an interrelated program of investment supported by the public and private sectors will be required.

In respect of a program of improved accommodation facilities, with specific reference to a new resort, the feasibility study carried out for a resort in the Flinders Ranges indicated that ultimately, a small resort complex—and I repeat those words, 'a small resort complex'—could be provided at Wilpena Pound provided the demand from the existing motel could be transferred to the new complex.

The report then goes on to suggest that there could be other specialist accommodation in the area but that, at this time, the region would not necessarily take a great deal of accommodation in terms of motels and cabins if the small resort complex was proceeded with at Wilpena Pound, as recommended in the Department of Tourism's report commissioned from Cameron McNamara. I indicate that the proposed development areas outlined in that report extend from Quorn through to Hawker, Wilpena, Blinman, Beltana, Copley and over to Arkaroola. They are not confined to the Wilpena area, as is the Government's current approach and focus.

I refer to comments of Professor Peter Schwerdtfeger, Professor of Meteorology at Flinders University, made in a speech that he delivered to the Ninth Annual Forum of South Australian National Parks and Wildlife Service Consultative Committees in Port Lincoln in October this year. I think he makes a valid point when he talks about tourists' expectations. Towards the conclusion of his paper, Professor Schwerdtfeger said:

> Ask yourself when you are travelling abroad, say, in Switzerland or Norway whether you would rather be staying in a clean, genuine hostelry, interacting with locals and seeing the sights in small groups, or be put up in a luxurious international tourist establishment where the only locals are the paid staff and you feel like an expensive sheep on tour.

I believe that that is absolutely correct, but not only in respect of Norway and Switzerland. Members who have been fortunate enough over the years to travel also to other European centres, to England and even through some Asian areas would have enjoyed the bed and breakfast type of accommodation. We have enjoyed meeting the people; we have enjoyed staying in the smaller villages and pensions.

That type of accommodation is what characterises those areas, and it is the reason why Australians fall in love with European, English and Irish areas and why Australians continue to flock back. Indeed, people from all around the world continue to flock back to those countries. In fact, this year Australians are leaving in droves to go to England, and this is having quite a dramatic impact on our balance of payments. But they do not stay in these huge, vast resorts, whether it be in the city areas or in the country. I think that that is the preference of Australians when they travel to those places.

I think if the Wilpena area is to be dependent upon Australians for some considerable time as paying visitors to the area, we should take into account what Australians want—not what we think Australians want in terms of accommodation. I think this is a basic flaw in terms of the whole planning of and the Government's obsession with this whole project.

Australians tend to want not the huge complexes but the small towns with atmosphere and character. It is a huge complex that we are being asked to accept in respect of this Bill. It is also within a national park. Unlike the Hon. Mr Davis, I take great exception to the fact that this development is within a national park. The Government itself knows that it has acted wrongly in this regard, and it would have difficulty denying that fact when it looks back to the statement issued by the Minister of Environment and Planning when releasing the Labor Party's environment and planning policy prior to the last election. The central feature of that policy is that there be no resort developments within national parks. I will read from the article by Melissa King and environment writer Sylvia Kriven, as follows:

> The planned tourist resort at Wilpena Pound would be the last development of the kind in South Australian parks, the State Government said yesterday.
>
> And soon after the policy pledge it was revealed that plans for a $4.5 million wliderness lodge inside Flinders Chase on Kangaroo Island had been dropped.
>
> Releasing the ALP's environment policy, the Environment and Planning Minister, Ms Lenehan, said new tourist development such as resorts, motels and hotels would be unacceptable in the State's national parks and parks system (about 14 per cent of South Australia), although 'low impact facilities and services' would be considered.

The very fact that the Government is referring to low impact facilities and services being considered for future development in parks re-emphasises the point that it knows that its proposal at Wilpena is low impact neither in terms of facilities nor services. The Minister continues:

> I believe that while the community will support Wilpena, perhaps it (similar development) wasn't appropriate for other areas.

The Minister also said that 'although hotels in parks would now be out of the question, small cabins, kiosks, barbecues and toilet facilities would be allowed'. I am entirely of the same view as Ms Lenehan. However, I regret that the Government does not have the courage to implement for the Wilpena development its own policy in respect of developments in national parks but is prepared to make an exception in this case. It is not only prepared to make an exception, but it also requires the Parliament to validate its actions in this regard when it is so hypocritical and knows that it would not accept similar developments in other

national parks, because this development at Wilpena is a high impact facility in terms of accommodation and service.

I want to refer briefly to camping. I indicated earlier that I am a keen camper. Like the Hon. Mr Dunn, I do not necessarily go for the silence; I go for the sound of the birds in the morning, the grace of the trees, the river when it flows, the magnificent colours of the area and the geological forms made famous in part by Sir Douglas Mawson, and I go because of the Aboriginal cultures and the whole spiritual feel of the place. I enjoy camping. Most campers do not chop down the timber or leave their rubbish behind. I suspect that most campers are considerate of their environment; otherwise, they would not make the effort to go there, and they certainly would not be fighting now to retain that sense and feel of the place which they have enjoyed in the past.

I recognise that tourism has an impact on the area. I find it offensive that campers should be singled out by the Government in this respect. I would argue very strongly that, in terms of environmental damage, the Government, if it wanted to maintain any integrity on this subject, would be looking at the feral goat and rabbit problem, yet it does not even bother to tackle that problem. It ignores that problem altogether. One would believe from the Government's statements that the campers were at fault.

The rabbit problem has been tackled by neighbouring property owners at their own expense and with major success, to the extent that rabbits on neighbouring properties have been eliminated. Yet this Government keeps up this farce, as if campers are the feral pest problem at Wilpena, and it is doing nothing at all about the major problem of goats and rabbits. That infuriates me.

It also infuriates me that one of the excuses for not attending to this major environmental problem is some supposed concern that money is not available. The money is available if the Government wished to channel to that purpose the rental payments that it now receives from the Wilpena chalet operators. The Government's view is that the rental and financial arrangements to be achieved from the Ophix development will be channelled in part to the National Parks and Wildlife Service to tackle the very problem which it is ignoring and which it could be addressing if it sought to apply those funds from tourists using the Wilpena chalet area. I find quite abhorrent the hypocrisy of the Government because of the manner in which it has dealt with this whole matter.

Lastly, I want to comment on representations that I have received from the Business Owners and Managers Association. My heart goes out to members of that association who have built up businesses, have large amounts of money invested, employ large numbers of people and generally and genuinely wish to do their best by this State. They are in desperate circumstances at the moment. They are desperate because the Government has mishandled a great many development proposals in the past. These were referred to by the Hon. Mr Dunn. They include the Mount Lofty development, the Jubilee Point development, the marinas at Marino Rocks and Sellicks Beach, and the Flinders Chase development—and heaven knows what will happen at the Barossa. That is a list of some of the most recent decisions where the Government has bungled or has hesitated to such a degree that nobody, including the financiers, is quite sure of the status of those developments. BOMA has reason to be desperate, but I do not believe that that excuse alone is justification for accepting at any cost, and moving against current law that would apply to all other developments, this development at Wilpena.

The Liberal Party will move a number of amendments to ensure greater accountability by the Minister and the Government through this Bill. I will support those amendments. I am also keen to look again at the amendments moved in the other place to clause 3 (4). Notwithstanding my support for such measures, I am unable to support the Bill as a whole.

The Hon. K.T. GRIFFIN: The Parliament ought not to be considering this Bill. If the Government had had the courage of its convictions and if it had sought to get this project up and running a long time ago, it could have used section 50 of the Planning Act. This Bill comes about only because the Government did not have the courage to invoke section 50 and to take the Executive responsibility for the approvals for the project. It sought to introduce a piece of legislation which it knew would create some difficulty for members of the Liberal Party and seek to move to the Liberal Party the responsibility for whether or not this project went ahead.

Of course, the Government had the best of both worlds. On the one hand, if the Liberal Party rejected the Bill, the Government was in such a mess over the issue that it could safely blame the Liberal Party for not permitting it to go ahead and, because of the complexity of the issue, that would have been believed by a lot of people in the community even though it was not true. On the other hand, if the Bill was passed by the Parliament with the support of the Liberal Party, the Government knew that there would be members of our Party who had a strong view opposed not only to the legislation but also to the development. The expectation on the part of the Government was that there would then be serious division within the ranks of the Liberal Party.

One can recognise that the Liberal Party is strong enough to withstand those sorts of divisions and tensions. As a Liberal Party we allow our members to express points of view which are different from the majority view—and on occasions even to vote in a way which is different from that of the majority view of the Party—and that is recognised as one of the benefits of belonging to the Liberal Party. Whilst the Government may seek to create a perception that that is division within the Liberal Party, it is nothing more than members exercising a right which is very much respected within our Party. There is no doubt that on this development—as there is on other issues which come before the Parliament—there are differing points of view within the Liberal Party. On some occasions they can be compromised and accommodated; on other occasions that is not necessarily possible.

Shop trading hours is an issue which does create tensions within the Party, as it does create tensions within the community. They are issues with which we wrestle. We are not dictated to by a Cabinet, and we are not compelled by Caucus under threat of expulsion to vote the Party line on every occasion. One has only to reflect back to the issue of video poker machines last week, I know that in both Houses on the Government side there are members who have strong views opposed to gambling and opposed to poker machines or video poker machines. However, when during the course of the debate I interjected a question to the Minister of Consumer Affairs about whether or not this was a conscience issue, she said 'No' it was not. My understanding of the ALP position was that the conscience issue was whether or not there should be a casino in South Australia, and thereafter anything which followed from it was not a conscience issue.

It is a deplorable situation that members on issues of conscience are not permitted by the Labor Party to express

them or be seen even on rare occasions to be voting against the Government or Party line. That is contrary to what happens in the Liberal Party, and it does not surprise me that my colleague the Hon. Diana Laidlaw, who has a very strong view on this issue—as I have strong views on other issues—should indicate a very real concern about this Bill. I respect that point of view, and I say to my colleagues, to the Parliament and to the public that that should not be a source of criticism but a source of respect for not only those colleagues who express those views but, more particularly, for the Liberal Party and the diversity of opinion it represents. After all, it is a reflection of the tension within the communtiy on these sorts of issues.

As I say, this Bill could have been avoided by the Government. It decided not to do so. It could have invoked section 50 of the Planning Act. I will remind members of section 50, which provides:

(1) Where the Governor is of the opinion that a declaration under this Division is necessary to obtain adequate control of development of major social, economic or environmental importance, he may, by notice published in the *Gazette* declare that this Division applies to—

(a) development generally within specified parts of the State; or

(b) specified forms of development throughout the whole of the State, or within specified parts of the State.

(2) The Governor may, by subsequent notice published in the *Gazette* vary or revoke a notice under subsection (1).

(3) Division 1 of this Part does not apply to development subject to a declaration in force under this section.

That section was specifically included in the Planning Act 1982 to enable a Government, which was of a view that a development was of such major social, economic or environmental importance to the State that its development ought to be subject to Government scrutiny, to take it over, accept responsibility for it, and also fast track the development. Of course, it still remains subject to environmental impact assessment procedures, but the consequence of a section 50 declaration is that the provisions of Division I of Part V of the Planning Act do not apply. Those provisions in Division I include matters such as third party appeals.

The Government has essentially used section 50 to stop developments. One of the most notorious cases was the case at Unley where the member for Unley was able to persuade the Minister for Environment and Planning, and subsequently the Cabinet, that a church development in the Minister's street should be covered by section 50, and thus be prevented. No-one could tell me that that development was of major social, economic or environmental importance and should have been subject to the heavy hand of a declaration by the Governor for the Government to take over the control of that development.

Of course, the difficulty now is that, if the Government did not have this Bill before us and was compelled to rely on section 50, it would not have any effect in relation to the events which have occurred so far; it would deal only with procedures hereafter. The difficulty with section 50 now, if the Government were to invoke it if the Bill did not pass, is that it could not adequately control the events which lead up to that declaration and, of course, litigation could continue and appeals would certainly continue. There are devices for avoiding the events which occur up to the declaration under section 50, such as the surrender of the lease and the issuing of a new lease to take it all out of the area of litigation. However, I suggest that that course of action would be seen for what it actually is—a device.

Therefore, in those circumstances, if there is a commitment to some development on Wilpena Station, defeating the Bill and placing the onus on the Government to invoke section 50 would not necessarily be supportive of the development, or supportive of the policy of the Liberal Party announced prior to the last election that it would support what was then known as stage one, subject to certain safeguards in relation to adequate water supplies in particular.

We are in a dilemma. The Liberal Party generally is of the view that some development is acceptable and that, if that development is to be facilitated, some fast tracking is appropriate, subject to certain safeguards. Either the Government is forced to adopt devices under section 50 or is to be supported in the passing of this Bill. The Bill causes me some difficulty and troubles me. It has been substantially improved since the Liberal Party moved amendments in the House of Assembly, but I suggest that other amendments should also be considered to improve it even further and to ensure that adequate controls are placed on the development whilst, nevertheless, allowing it to continue.

What we must achieve in respect of this development is a proper balance between those who desire to see it proceed and those who believe that in every respect the environment ought to be protected. The history of the development is set out in the two court decisions so far, and I will refer to them later. Essentially, it is along the lines that the development was considered by the Government and the Ophix group was chosen for the development. The Government thought that it could avoid the provisions of the Planning Act by slipping the station into the Flinders Ranges National Park on the basis that the Planning Act would no longer apply to the park and any development in it.

The Government was too smart by half, because litigation commenced. That has now been before a single judge of the Supreme Court, three judges of the full bench of the South Australian Supreme Court, and there is now the prospect of an appeal to the High Court, for which leave to appeal has been granted. This legislation followed the prospect of both that litigation and even further litigation, according to the Government, and we now have to consider the merits of this legislation and of the development.

Although some members of the Government have sought to do so on some occasions, I do not think that one can criticise citizens for exercising rights they believe they have and to test those rights in the courts of both our State and our country. One cannot dismiss litigants as troublemakers. It may be that some may perceive them as such because of the inconvenience they may create to individuals. Whilst that may be annoying in some respects, nevertheless, if rights are given, citizens are entitled to exercise them. It would be a sorry day for our State and our nation if individuals were to be prevented from exercising rights that have been given to them and prevented from exercising those rights retrospectively.

Of course, there is the notorious case that occurred not long before the last State election, when the Government tried to override established rights retrospectively, when the High Court said, in relation to parole, that certain prisoners had not been sentenced in accordance with the law; that the Supreme Court had misinterpreted the law. About 300 prisoners had the right to take their own sentencing on appeal to the courts—ultimately to the High Court—and the Government sought to introduce legislation and have it passed so that retrospectively, after the High Court decision, it said, effectively, that the High Court was wrong; what the Parliament enacted was clear, even though the High Court did not think so. Therefore, the rights of prisoners which had accrued should be overridden. In those circumstances it seems to me that there was the worst form of retrospective legislation, which removed accrued rights.

Notwithstanding the public controversy that the Government attempted to generate because it said only prisoners

were involved, the Opposition persisted and, supported by the Australian Democrats, we were successful in removing that retrospective removal of accrued rights. Again during the election campaign, we gained some criticism for it but, ultimately, we could hold our heads high and live with ourselves in respect of the action we took to support what we believed was a very important principle.

The debate in respect of Wilpena, in so far as it relates to retrospectivity, has not been particularly clear. Members will remember that when this was first proposed by the Government, in a statement issued to the media, the Liberal Party said that, if there was any element of retrospectivity in it, it would not gain our support. When the Bill was introduced initially, the public believed that clause 7 (2) as it then was did retrospectively operate to override the appeal to the High Court.

Clause 7 (2) provided that the Planning Act 1982 does not apply and will be taken never to have applied to or in relation to the lease. It was the use of those words 'will be taken never to have applied' that were focused upon as being the objectionable retrospective provisions of the legislation. In fact, that was not the key aspect of this Bill. As those words were framed, they were retrospective in a very broad sense, applying to the lease. I think that it was publicly stated by a number of people that the Planning Act was not to apply retrospectively in any way to the project, but a closer examination showed that it was in relation only to the lease.

The amendment that the Liberal Party has been successful in moving in the House of Assembly, which is now in clause 9 (2), is that the grant and acceptance of the lease did not constitute division of an allotment within the meaning of the Planning Act 1982. Whilst I suppose that there is an element of retrospectivity in that, it is important to recognise that it is very much narrower than in the Bill that was introduced in the House of Assembly, and does not in any way have a bearing upon the rights of the plaintiffs in the High Court action to continue with the course of action they are pursuing, because the issue of the lease was not relevant to the Supreme Court case or to the High Court appeal.

The issue in relation to the lease is a fairly narrow one, that is, that under the Planning Act the development is prohibited unless certain procedures are followed. 'Development' is defined, amongst other things, as division of land. 'Division of land' is defined as including the granting of a lease of a portion of an allotment for a period of more than six years. The granting of this lease over portion of the Flinders Ranges National Park was considered by some to be a division of an allotment, albeit a huge allotment, for a period of more than six years, that is for 45 years with a right of renewal for 45 years, and thus was a division of land and thus a development and, because it had not received planning approval, was not therefore valid.

That issue was not seriously in contention in the Supreme Court before Mr Justice Jacobs. It was certainly not in contention before the Full Court, and it is certainly not part of any appeal to the High Court. Although it may be arguable, I do not think anybody with experience in planning law, and certainly nobody to whom I have spoken, regards that as a serious ground of complaint about the lease and would not rely on it for challenging the processes applied to the development.

If one disregards what is now clause 9 (2), in relation to aspects of retrospectivity, one needs to look at other provisions of the Bill. No other parts of the Bill are in fact retrospective. From a practical point of view, what they do is limit the consequences of proceeding with any High Court appeal, because in two respects the appeal may not continue. The first is that if it does, there would be no basis upon which it could have any legal effect, because from the date of this Bill becoming law the Planning Act would not apply to the acts or activities referred to in clauses 3, 4 and 5. One would then have to assess the value of proceeding with a High Court appeal, where the consequence of the appeal would not have any impact, legally, on those acts or activities.

The second aspect is that if the appeal were to proceed before the High Court, the High Court could suggest that, because the Planning Act no longer applies to the development, there would not be much point in the High Court considering what is then, in effect, a hypothetical case. So the plaintiffs would have to consider whether it is worth, first of all, taking it to the High Court and running the risk the High Court would not hear it for those reasons; or, if the High Court did hear it, what would be the consequence of continuing. If the plaintiffs were to succeed, it may be a hollow victory. If the plaintiffs were to lose, considerable costs would be involved.

At that point, I should say that if the Bill does pass, I would hope that it would pass in such a form that includes an obligation upon the Government to meet the costs of the litigation so far and up to the High Court. There will be some on the Government side who possibly will argue that there should be no way that those costs be paid because of the difficulties that the litigation has created. Nevertheless, I come back to the point I made earlier, and that is that those plaintiffs had a right to take the issue to the courts; if they were not successful they were entitled to appeal, and in my view any criticism of those appeals, however troublesome they may have been, is without substance, because those citizens are entitled to take that course of action. The very passing of this legislation, although it is not retrospective, in effect means that proceeding with the High Court appeal is not likely to be of particular value, and for that reason the Government ought to be prepared to face up to meeting the costs incurred so far.

The Minister in the other place argued that the two plaintiff groups were supported by the Government in respect of their day-to-day running expenses. I suggest that that is irrelevant as to whether or not the costs of litigation ought to be met if this Bill passes. They are two separate issues. They cannot be related. One is the contribution of Government towards running costs. The other is the cost of litigation, which has largely been funded, as I understand it, by private subscription. At the appropriate stage there will be an amendment which seeks to require the Government to pay any costs incurred so far, on a solicitor and client basis, by the plaintiffs in the High Court action because of the practical effect of this legislation.

For a moment or two, I want to touch upon the issue of a statement made by the Premier, that, in retrospect, the decision to put Wilpena Station into the Flinders Ranges National Park was the Government's major mistake in this whole episode. That is false; it is a smokescreen; it is not accurate. Although the Premier may be seeking to avoid the consequences of this action, what it did do was to seek to avoid the implications of the Planning Act by putting the station into the National Park, to thus avoid the prospect of public challenge to the development. However, in fact, had it not been placed in the National Park, it would have been subject to the Planning Act and all of the procedures of the Planning Act, unless the Government had invoked section 50, and in those circumstances either the Government was prepared to face up to those consequences by not

putting it into the park or it must live with the consequences of taking the alternative course of action.

The application of the Planning Act to the development—not to the lease, but to the development—was the issue of the litigation. The validity of the lease, as I have said already, was peripheral to this whole debate. The issues in the litigation related to Crown immunity, to the issue of the relationship of the National Parks and Wildlife Act with the Planning Act and the question whether Ophix, as lessee, was covered by whatever immunity the Crown had under the provisions of both the Planning Act and the National Parks and Wildlife Act.

I now refer to the judgment of Mr Justice Jacobs, as the judge in first instance. The judge briefly summarised the declarations that were sought. He states:

In substance, they [that is the plaintiffs] seek declarations that the proper planning process has not been followed, and an injunction to restrain the development, at least pending due compliance with what they claim to be the appropriate and relevant planning legislation.

Of course, there was the issue of *locus standi*; that is, whether the plaintiffs had standing. He found that they had standing, although did not regard that as the significant issue. He outlined the facts in his judgment as follows:

The facts that are relevant for the present purposes are not in dispute.

I think it is important to note that they are not in dispute. The judge goes on to state:

The Flinders Ranges National Park was created pursuant to the provisions of the Act in 1972. After long delays, which are unexplained, but are not material, a draft plan of management was released for public comment in 1978, but it was not until 1983 that the plan was adopted. In 1985, the Minister acquired a property known as Wilpena Station, which abutted the existing national park, for the purpose of incorporating it into the national park, although it was not formally so incorporated until June 1988. In relation to the national park as a whole, it is a very small area, about 1 per cent of the total area.

Soon after the acquisition of Wilpena Station, the Minister engaged consultants to advise him upon the establishment on that land of a tourist resort facility. It was in the course of ensuing discussions and negotiations, which continued for two or three years, that Ophix became interested in the project, and eventually produced a detailed plan for the establishment of a tourist resort to be constructed and operated by that defendant, and which appeared satisfactorily to answer the concept which the Minister had in mind.

Thereafter, Wilpena Station was formally made part of the national park, and an amendment to the management plan was prepared and promulgated for public discussion. For the purpose of that discussion, and the guidance of the Minister, the amendments to the management plan designed to accommodate the establishment of the tourist resort in the national park, were accompanied by an environmental impact statement.

In due course, in January 1989, the amended plan of management was adopted, and on 16 January 1989, the Minister executed a lease to Ophix. It is not in dispute that procedures for amendment for the management plan have been duly followed and that some modifications of the concept plan have been made as a result of that process; and it is not in dispute that the 'operations' now to be carried out by Ophix on behalf of the Minister under the terms of the lease, by way of development of the project, are all in accordance with the plan of management, as amended.

Against that background, the judge then went on to consider the application before the court. He concluded that the establishment of the tourist resort on what was formerly Wilpena Station was development within the concept defined in section 4 of the Planning Act, but ultimately he determined that the Planning Act did not apply.

There was a consideration of section 7 of the Planning Act. Section 7 dealt with Crown immunity. The judge states:

It is conceded, as stated earlier, that the development now proposed to be carried out under the terms and conditions of the lease to Ophix is development to be carried out in accordance with an adopted plan of management for the park; and the development being of that kind, I would have had no difficulty in concluding that it falls within the exclusionary provisions of section 7 (3) of the Plannning Act and that the defendants plea in bar succeeds, were it not for the contrary submission of the plaintiff.

In summary the argument for the plaintiff, asserting that the Minister was bound to give the notice referred to in section 7 (2) of the Planning Act, and thereafter to comply with the procedure in that section, appears to rest upon the following propositions:

1. The National Parks and Wildlife Act 1972 and a plan of management thereunder is primarily concerned with 'management' of the park, and ought not to subsume control of 'development' under the Planning Act.

2. For the purpose of section 7 of the Planning Act, a distinction is to be drawn between a 'proposal to undertake development' on the one hand, and 'a proposed development' or 'development' on the other, and that the exclusionary provision in regulation 59 *(e)* [under the Planning Act] speaks only to 'development'.

The judge concluded, as I say, that even under those provisions, the development was not subject to the provisions of the Planning Act. He states:

In my opinion the Legislature has evinced a clear intention to take 'development' in national parks outside the ordinary planning process, and the legislation itself discloses sound reasons for public policy why that should be so . . . Where there is a management plan, any development proposed to be undertaken is not lawful unless it complies with the management plan, and where it does so comply, the Planning Act does not apply. If there is no management plan for the park, the Minister appears to have two options. He is obliged by law to bring in a management plan 'as soon as practicable' after the park has been constituted under the Act and may therefore defer a decision on the 'proposal' until such a plan has been promulgated and adopted, but in the meantime if he proposes to undertake development in a park he must comply with section 7 of the Planning Act. That is a very different process from that envisaged by the Planning Act for the 'development' generally (section 47 *et seq.*) and a process in respect of which the Minister is, by section 7 itself, answerable to Parliament for his decision.

For all these reasons, I hold that the Minister in respect of the development now proposed to be undertaken was not bound to comply with section 7 (2) of the Planning Act and the consequential provisions, subsections (4) to 9 *(a)* inclusive of section 7.

Basically, they are the observations of the judge at first instance, and they indicate quite a strong view that with the development in the national park the Planning Act does not apply and thus does not impose constraints of the Planning Act on that development. That is relevant, of course, because, if the case were to proceed to the High Court and if that decision were to be upheld as it was upheld in the Full Court, it would mean that there were fewer controls over the development than are actually in the Bill before us. I think that is an important consideration and one of the matters that must be balanced against a defeat of this legislation.

Basically, in the Full Supreme Court the views of Jacobs J. were reflected by the judges of the Full Court. That does not necessarily make them right because there have, of course, been a number of occasions where the High Court has taken the view that judges of State courts have not necessarily interpreted the law correctly.

I now turn to the provisions of the Bill. As I say, a number of amendments made in the House of Assembly impose additional constraints upon the development, but not to the extent where it will be prevented. However, there are several other matters on the Bill to which I wish to refer rather than repeating the added protections which have already been achieved in the House of Assembly.

In addition to the costs of litigation, some concern has been expressed about clause 3 (4) of the Bill which seeks to provide that if the Minister is satisfied of certain matters then by notice in the *Gazette* the Minister may increase to 2 924 overnight visitors the accommodation from the levels specified in clause 3 (2).

In the amendment which was moved in the House of Assembly, a particular configuration of accommodation was specified. However, as was pointed out, in some respects

that is inconsistent with the provisions in schedule 4 to the lease which limits the number of bedrooms in the hotel to 220 and the number of separate bungalows, if I remember correctly, to 120, increasing the size of the development. I dispute that because there is already, in the lease, a provision in schedule 4 allowing the Minister to change the configuration of accommodation up or down provided, of course, that there are compensations; if one goes up, another goes down; if one goes down, another may go up.

In schedule 4 the configuration relates to the maximum accommodation which may be permitted under the terms of the lease and in that development. Therefore, some consideration is being given to removing that configuration in subclause (4), but it has not yet been resolved exactly what form that might take. Of course, it would have to be consistent with the terms of the lease which has been entered into between the Minister and the developer. There is nothing much that we can do about that at the present time.

I want to take a couple of other issues further. One is what is now clause 9 (1), which provides as follows:

The Planning Act 1982 and the Native Vegetation Management Act 1985 do not apply to the acts or activities referred to in sections 3, 4 and 5—

those sections deal with the accommodation development at the tourist facility, the airport and the power lines to the facility and the airport—

and those acts and activities may be undertaken in accordance with this Act notwithstanding any other Act or law to the contrary.

I want to see those words removed, because it has not been indicated in any part of the debate, either in this place or in the House of Assembly, what other Act or law might create a difficulty in respect of the development, other than the Planning Act and the Native Vegetation Management Act. Unless there is some good reason for that catch-all provision to be there, I would prefer to see it out and the exemption from the law kept to a minimum.

I think that consideration also needs to be given to clause 12. First of all, there is an error in subclause (2), because it refers to section 7 (1). I think that should be section 9 (1). However, more particularly it provides that nothing in the Act varies the lease. Effectively, amendments are made to the lease which have to be implemented.

The argument presented to me is that, under subclause (2), if the Act is not complied with, then that which is not complied with does not obtain the benefit of the protection from the provisions of the Planning Act and the Native Vegetation Management Act. I have some difficulty with that. I think we shall need to ensure that that is clarified, remembering that the provisions relating to the approval of the Minister to the limitation on the building height and to the construction of power lines are matters which in one way or another are modified by the provisions of this Bill.

There are issues still to be considered there. Additional safeguards are included in relation to environmental impact statements and compliance by the lessee with certain plans which the Minister is now required to table in the Parliament; and there are certain additional provisions in relation to the construction of the airport and the power lines and in relation to the Minister's exercising a discretion to increase the size of the development, particularly from 2 924 overnight visitors to 3 631 overnight visitors, because that issue must come back to the Parliament. Of course, that issue must mean that the lease is varied to that extent.

There is the other broader issue of the development at Wilpena Station. I do not have any difficulty with some form of development there. Whilst I have been to the Flinders Ranges on a number of occasions, camped out and sought to avoid the more densely populated tourist facilities, many others seek to visit the Flinders Ranges in organised tourist facilities. Whilst some enjoy camping, others would prefer to do it in a little more comfort. Some people may in fact be disabled and need the facilities of motel-hotel accommodation. I do not believe that I have a right to deny them the opportunity to enjoy all the benefits which come from being in the Flinders Ranges.

Of course, that has to be balanced against some reasonable provisions to protect the environment, but it would seem to me that there are means by which that can be undertaken, and ultimately the Government and the Minister of the day must be accountable for those environmental controls and protections. It is not my intention to deny members of the community the opportunity to enjoy the Flinders Ranges in whatever form they wish to take that enjoyment. If it comes in the form of a built development of reasonable size with adequate safeguards in relation to water and other environmental controls, they should be able to do that.

It is for that reason, and because of the dilemmas that face us in relation to this development, which has gone so far in its planning and which is now thrust upon us in the form of legislation by the Government, that I am happy to support the second reading of the Bill to enable further consideration to be given to the issues to which I have referred during the Committee stage of the Bill.

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

STATUTES AMENDMENT (SHOP TRADING HOURS AND LANDLORD AND TENANT) BILL

Adjourned debate on second reading.

(Continued from 6 November. Page 1487).

The Hon. I. GILFILLAN: The Democrats have steadfastly opposed this move to extend shop trading hours to 5 p.m. on Saturday afternoon. The arguments have been canvassed extensively in this place and I do not intend to go over all that ground again tonight, but I should like to highlight what I see as several major areas of significance. The first is that, although this measure moves closing time from 12.30 p.m. to 5 p.m. on Saturday, it has been stated by several people involved in considering these matters in Government and in the Retail Traders Association that the eventual aim is virtually totally so-called freeing up of trading hours.

The debate is more significant than just purely that which would apply if one felt assured that by extending trading hours to 5 p.m. on Saturday that was the end of moves to further change the shop trading hours in South Australia. The arguments that are put forward are seductive to a degree, if one is convinced that the only way South Australia can exist is by aping to eastern States, and that our lifestyle will be determined by the perceived whims of tourists who come into South Australia from time to time, allegedly with spending money which they will not spend unless they can do so between 12.30 and 5 o'clock on Saturday afternoon.

Even if that were partly true—and I am dubious whether there is any substantial loss of money spent in South Australia because of it—it does not take into account the cost which South Australia and South Australians will bear as a result of this. There will be an increased overhead and very little increased actual trade. It does mean that, on average, goods will be more expensive to the consumer—the South Australian consumer as well as the tourist. Many small businesses in South Australia, if not forced to close, will be

on reduced profit, with the bigger proportion of the profit going to supermarkets and large shopping corporations in particular. The rewards of that will go interstate; they will not stay in South Australia.

Some anomalies show up in a closer analysis of the Bill, and I will deal briefly with a couple of those before concluding my second reading remarks. It has already been brought to my notice by several smaller traders that, if they choose to remain open for these extra hours on Saturday afternoons—and several places because of their location and because of the nature of their business will feel obliged to do this—even if their staff do not work any of that time, the actual increased loading will apply to those wages. So, by opening up this opportunity of extended shopping hours in South Australia, in many cases a loading will apply to the wage bill of small businesses where the proprietors will have done no more than give themselves the extra task of working on the Saturday afternoon.

I believe that would be a totally unfair state of affairs, and it ought to be considered, as a matter of justice, in the Committee stage. Shops that do not open for those extra hours should not have that loading. I believe that we will need to look at the burgeoning trade being encouraged in petrol stations. Anyone who has bought petrol will realise that there is some very skilled, wide-ranging marketing being undertaken in these places, which is being encouraged by major oil companies which realise that the proprietors will be able to survive, on a low margin if they are able to make profit from the side trading as quasi shopkeepers. I note that the Retail Traders Association, in some correspondence it sent to me, has expressed some concern about legislation as it would apply to the permitted trading of goods and the hours of the petrol stations.

Recognising that the numbers exist to pass this legislation, I intend to move an amendment to empower the non-metropolitan councils to determine shop trading hours in their regions. This has been urged by the Chamber of Commerce and the Mount Gambier council, and has been treated sympathetically by the LGA and other rural councils. It is interesting to note that the Retail Traders Association (RTA) saw fit to treat this proposed amendment seriously indeed, and sent to me an extensively prepared summary of reasons why such proposals should be rejected. I will deal with this matter in more detail in the Committee stage, but these are the reasons why the RTA objects to giving local government the power to determine what should be shop trading hours in a local government area, bearing in mind that at this stage local government is being let off the leash to a degree, the State Government has taken initiatives to give it more autonomy and more power, I believe it is a very fitting expression of that move to grant local councils in the non-metropolitan area this right to determine shop trading hours as they see most appropriate for their areas.

This document gives a summary of the reasons it puts for opposing this proposal. The summary begins:

1. The proposal is a back-door attempt to prevent Saturday afternoon trading applying in country shopping districts.

I think that is a presumption which really belittles the capacity of the Council to make a decision to allow Saturday afternoon trading, oppose it or modify it if it sees fit. The summary continues:

2. The proposal ignores the fact that many country areas of South Australia already have totally deregulated trading hours which include Saturday afternoon trading.

This just indicates that in certain rural areas this freedom for deregulation applies, so there is that variety in South Australia already. The summary continues:

3. The proposal would discriminate between city local councils and country local councils.

Quite obviously, there are other areas of discrimination between city and country local councils. I do not see that argument holding up. Then the summary states:

4. The proposal is unnecessary.

I think it is really scraping the bottom of the barrel in that argument. It claims that section 12 of the Shop Trading Hours Act already gives local councils the power to apply to the Minister for a country area to be declared or cease to be declared a proclaimed shopping district. The only difference in this proposal is that, instead of the council having to apply to the Minister, my amendment would enable the council to make a determination itself. The next point is:

5. The proposal would be impossible to implement or administer given the nature of country shopping districts.

That really does beg the question that, if there is to be any administration or implementation of shop trading hours, obviously that must be done regardless of whether the local council or the State Government has control of it. The summary then states:

6. The proposal would create greater uncertainty and confusion over retail trading hour laws.

The non-compulsory extended trading hours, which the Government's Bill intends to introduce, would have exactly the same result.

The next point is:

7. The proposal would grant to local councils control over issues which involve more than just local considerations.

Once again, that rather belittles the concept of what local councils are increasingly becoming and being encouraged to become, that is, a sphere of Government with really substantial areas of jurisdiction. The summary continues:

8. The proposal would inhibit development in country centres.

That is obviously suggesting that it might inhibit the development of supermarkets and large corporations that see the extended shop trading hours to their commercial advantage to the cost of the local industry. The next point is:

9. Local councils have no mandate to exercise this power.

What a pathetic argument to put against an amendment. That really indicates what shows up in the last argument, as follows:

10. The proposal would create significant conflict of interest problems under the Local Government Act.

The final sentence which I quote completely is the real key, and states:

In addition, it may not be possible, given the nature of local government, for local councils to properly balance the competing interests of both local and State-wide or national retailers in exercising the proposed jurisdiction.

That is the real crux of the matter. The RTA has been able to put a very persuasive case to the Government and to others who are supporting these extended shop trading hours, because major or national companies see it as being substantially to their advantage. It will inevitably result in a reduction of the local companies competing for this market.

As I predict that the Bill will pass the second reading stage, I will be moving an amendment to give local councils in the non-metropolitan area this extra power. In conclusion, I should like to emphasise yet again that the Democrats have been far from happy that the debate about the real advantages and disadvantages to South Australians in this shop trading hours extension has been followed properly and objectively.

I read with interest the comments made in this debate by the Hon. John Burdett. I was very pleased to see that he had also recognised and had brought to his notice some of the substantial risks and disadvantages many South Australians will suffer as a result of this measure. There is a social

cost, which may never be spelled out in dollars and cents. We value the quality of life in South Australia and the capacity for our families to enjoy a weekend playing sport.

Many thousands of South Australians will not have that option, because of the obligation to work those extended hours. Members will note that new employees and all employees after two years will be obliged to work those hours. That has a cost and a down side. The reduction of family time on weekends is a factor that must be considered.

The Hon. Peter Dunn interjecting:

The Hon. I. GILFILLAN: The Hon. Peter Dunn interjects that the employees may like the extra money. The fact is that, if it is extra money, that could flow through to them from wages from a more efficient and productive retailing trade. I am convinced that this extended trading hours proposal will not increase the total profitability of business in South Australia. It will only transfer it from a dispersed group of smaller entitities to the bigger groups such as Coles, Myers and Woolworths that are poised to take that share of the market. The Democrats regard this measure as a retrograde step for South Australia and we will oppose the second reading.

The Council divided on the second reading:

Ayes (16)—The Hons. T. Crothers, L.H. Davis, Peter Dunn, M.S. Feleppa, K.T. Griffin, J.C. Irwin, Anne Levy, R.I. Lucas, Bernice Pfitzner, Carolyn Pickles, R.J. Ritson, R.R. Roberts, T.G. Roberts, J.F. Stefani, C.J. Sumner (teller) and G. Weatherill.

Noes (2)—The Hons. J.C. Burdett and I. Gilfillan (teller).

Pair—Aye—The Hon. Barbara Wiese. No—The Hon. M.J. Elliott.

Majority of 14 for the Ayes.

Second reading thus carried.

UNIVERSITY OF SOUTH AUSTRALIA BILL

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

The Hon. ANNE LEVY (Minister of Local Government): I move:

That this Bill be now read a second time.

I seek leave to have the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Bill

I present a Bill for an Act to establish South Australia's third university, to be known as the University of South Australia. It is not a common occurrence for universities to be established—in fact this is only the third time in South Australia's 154 years that a university has been established. There have previously been numerous rearrangements of tertiary educational institutions in the past, but now we are on the verge of an historic step. We are bringing together a college of advanced education and an institute of technology and changing their status and mission, and in so doing enriching the educational profile of South Australia and setting us firmly on the road to us becoming the smart State.

In changing the status we are mindful of the very special characteristics of a university, of the principles of academic freedom, of the autonomous nature of the institution, of the entry into the international network of similarly designated institutions. This status change is not a cosmetic device but signifies a tremendous step forward and will lay the base for a standard of excellence, and accessibility to that excellence.

I mentioned three principles:

First, academic freedom—by this we mean the absolute right of university academics to pursue areas of intellectual concern and teach and publish without government interference.

Secondly, university autonomy—the university, as clause 4 (3) states is not an instrumentality of the Crown, and as such is governed by its council, and details of the freedom of governance are spelt out in the Bill. No longer will its course offerings have to be accredited by outsiders as presently is the case in the component institutions.

Thirdly, entry into an international network. Universities hold a special place in the modern world and are crucial to our economic, technological and social wellbeing. No longer will those who are from a college or institute have to explain, especially when accessing overseas markets, that they are part of the 'real' tertiary sector, and that their offerings are legitimate. The designation of university status will make that an automatic presumption.

The establishment of a new university is not, however, an easy task, nor one taken without considerable thought, negotiation and resource allocation. This is even more the case when dealing with an amalgamation of institutions with solid track records reaching back more than a century and established goals, activities and procedures.

Honourable members will be aware that Commonwealth Government support for growth and reform in higher education will focus on those institutions which make up the unified national system of higher education. As educational institutions fulfilling university functions it simply makes a lot of sense to organise our institutions into a system that is recognised for what it is, provides social and educational value, and is eligible for substantial Commonwealth funding.

The Unified National system provides for fewer and larger institutions than have existed in the past, and in so rearranging, hopes to achieve more effective coordination on matters such as course provision, disciplinary specialisation and credit transfer. The University of South Australia will be South Australia's largest university with approximately 13 000 students. Students will benefit from this concentration of resources.

Larger institutions give students access to a more comprehensive range of course and program options, greater scope for transferring between disciplines with maximum credit and better academic and student services and facilities. For staff there is the potential for an enriched teaching and research environment, opportunities to participate in a wider range of courses and programs, for enhanced promotional opportunities and professional contacts, and more flexibility in the arrangement of teaching loads.

I also wish to highlight the very great importance this Government places on access and equity in higher education. As South Australia's largest university, spread across six campuses it reaches into all socio-economic strata. Many talented people have not, in the past been served well by our tertiary education system. It wasn't so long ago that parts of the system were dedicated to excluding many apparently 'ordinary' people so that the excellence of a minority could be fostered. Our society, facing as it does, all the challenges of world competition simply cannot afford to waste huge resources of talent on grounds irrelevant to ability and performance. All can contribute and all will have an opportunity to have the educational wherewithal to participate in a society in which economic growth, technological advances, and social cohesion would depend at

least as much on the confidence and talents of the many, as on the brilliance of the few.

As we move towards the year 2000, here in South Australia we must ensure that our higher education system should maintain its commitment to excellence in teaching and research, yet at the same time be comprehensive, accessible and related to individual potential. Its curriculum and its processes should invite rather than impede, include rather than exclude. Now more than ever, sustained economic success and social development depends upon the continuing education of our people and the trained abilities of our work force.

I am particularly keen that Aboriginal people see the university as relevant to their hopes and aspirations. For the first time in legislation of this type in Australia, there is highlighted, in the functions of the university, that it is to provide such programs as are appropriate to meet the needs of Aboriginal people. Members will also note other community oriented access and equity issues.

This legislation recognises the diverse cultural life of our community. By listing in the functions equal opportunity measures for access and participation for disadvantaged groups, the legislation firmly establishes this Government's commitment to higher education as a means not only for social and economic development, but for establishing equity.

The Government has gone to great lengths to consult widely on this legislation, and interestingly there has probably been more discussion on the name than on any other matter. Numerous suggestions have been put forward and the decision taken was that the university should carry the name of the State. The Government was happy to endorse the decisions of the Councils of the South Australian College of Advanced Education and the South Australian Institute of Technology both of whom decided that the University of South Australia was the best name. Many of the leading universities in Australia and overseas carry the name of the state, and this gives them a status and dignity—the University of Western Australia, University of New South Wales, University of Tasmania, University of Queensland, not to mention such impressive and great educational institutions such as the University of Michigan, University of Wisconsin, University of California etc.

Some people put the view that the University of South Australia could be confused with the Flinders University of South Australia. Flinder's reputation is well established and quite widespread. In its 25 years it has become a recognised and substantial University. I am glad to note that at its meeting on 24 August the Flinders University Council placed on record its view that the name, University of South Australia, was no dire cause for concern.

The name is fitting, as the new university with its six campuses, including one at Whyalla, will be truly for all of South Australia, not just the metropolitan area. One of its great strengths is that it will place particular emphasis upon distance education and a special focus on educational outreach. It will use new technology to broaden the educational base and will bring education to people as well as people to education.

The establishment of the University of South Australia involves the disestablishment of the two component institutions. Complementary to that are amalgamations which increase the size of the University of Adelaide and Flinders University. A separate piece of enabling legislation—a nuts and bolts piece of legislation to make it all work, will be presented to this House when this Bill is debated further.

The progress of higher education is a vital element of the economic and social nature of South Australia. The establishment of the University of South Australia is a major step towards realising that future.

Clause 1 is formal. Clause 2 provides for the commencement of the Act by proclamation.

Clause 3 provides several definitions for the purposes of the Act, all of which are self-explanatory.

Clause 4 establishes the University of South Australia as a body corporate of full legal capacity, and makes it clear that the university is not an instrumentality of the Crown.

Clause 5 sets out the primary functions of the university, which are to further knowledge, whether through teaching, research, scholarship or consultancy, and to provide a wide range of tertiary education courses, including courses specially designed to meet the needs of the Aboriginal people and of other disadvantaged groups in the community. The university is to strive for excellence and the highest possible standards in its provision of tertiary eduction.

Clause 6 sets out the general powers of the university; first, to confer appropriate academic awards and secondly, to do all necessary things for the management of the university. The power to sell or otherwise dispose of land is subject to approval of the Governor. The university has an unfettered power to lease any of its land if the term of the lease does not exceed 21 years.

Clause 7 requires the university to adhere to certain principles in the management of its affairs. The university must establish and regularly review principles for the sound and fair management of the university and its staff and must not discriminate against any person on political or religious grounds or subject any person to unlawful discrimination (that is contrary to the Equal Opportunitv Act) on the ground of sex, sexuality, marital status, pregnancy, race, physical or intellectual impairment or age or any other ground. These provisions are not to prevent the university from running such affirmative action programs as it thinks fit. Nothing in this clause derogates from the Equal Opportunity Act.

Clause 8 requires the university to continue to maintain the De Lissa Institute and the School of Art, both of which the South Australian College of Advanced Education is, pursuant to its Act, currently required to maintain.

Clause 9 provides that student associations cannot alter their constitutions or rules without the prior approval of the Council.

Clause 10 establishes the council of the university. The council is the governing body of the university and has responsibility for the entire management of the affairs of the university. The council will consist of not more than 28 members, made up of 10 people from the governing body of the Institute of Technology, 10 from the governing body of the College of Advanced Education, not more than seven other persons nominated by the Minister, and the Vice-Chancellor, *ex officio*. The latter category of members must be persons who were not involved with the institute or the college, and who are not staff or students of the university. The first appointment of the institute and college representatives will be made on a recommendation from the institute and the college. As this council is of an interim nature, it is provided that this clause will expire on 30 June 1992; the council as presently constituted will therefore have a maximum life of only 18 months.

Clause 11 provides that terms of office will not exceed one year and makes provision for removal from and vacancies of office.

Clause 12 provides for the appointment of Chancellor and Deputy Chancellor from amongst the members of the

council. The first appointment will be made by the Governor on a recommendation of the institute and the college. Thereafter, the council will appoint its own Chancellor and Deputy Chancellor. The interim Chancellor and interim Deputy Chancellor will be appointed for a term of office of one year. Subsequent appointments will be for terms of office not exceeding five years. A staff or student representative on the council is not eligible to be appointed Chancellor or Deputy Chancellor.

Clause 13 sets out the usual provisions relating to meetings of the council. It should be noted that the person presiding at a meeting does not have a casting vote.

Clause 14 provides for validity of acts or decisions of the council notwithstanding vacancies in its membership or any defect in the appointment of a member.

Clause 15 gives the council the power to delegate to council members, employees, holders of any particular office and committees of the council or the university.

Clause 16 provides for the appointment of the Vice-Chancellor of the university, who will be the chief executive officer of the university. The first appointment will be by the Governor on a recommendation of the institute and the college, and subsequent appointments will be made by the council.

Clause 17 provides for the appointment of staff.

Clause 18 requires the council to report annually to the Minister and also to report at the end of the first year of the university's operation on any changes that should, in the opinion of the council, be made to the council's structure, and on any other matter arising out of the establishment or operation of the university. These reports must be laid befor Parliament.

Clause 19 requires that the university's books be audited by the Auditor-General at least annually.

Clause 20 provides for the payment of money appropriated—by Parliament to the university.

Clause 21 exempts the university from land tax.

Clause 22 gives the Industrial Commission jurisdiction in relation to officers and employees of the university.

Clause 23 empowers the council to make statutes for the management and organisation of the university, for the admission of students and the conferring of academic awards, the imposition and collection of fees, and other matters of an internal nature. Statutes must be confirmed by the Governor and published in the *Gazette* and laid before both Houses of Parliament where they will be subject to disallowance.

Clause 24 empowers the council to make by-laws for the purpose of governing traffic on the university grounds, controlling the use of alcohol, tobacco and other substances on the grounds, and generally for regulating the conduct of persons while within the grounds. By-laws must be confirmed by the Governor, published in the *Gazette*, and laid before Parliament. By-laws may be disallowed by Parliament. The council is empowered to provide for expiation of traffic and parking offences.

Clause 25 provides that confirmation and publication of a statute or a by-law is conclusive evidence that it has been properly made. Statutes and by-laws do not derogate from any other Act or law. A person cannot be charged under both a statute and a by-law for an offence.

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

STATUTES AMENDMENT AND REPEAL (MERGER OF TERTIARY INSTITUTIONS) BILL

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

The Hon. ANNE LEVY (Minister of Local Government): I move:

That this Bill be now read a second time.

I seek leave to have the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Bill

This Bill is a companion to the Bill for an Act to establish the University of South Australia; and for other purposes.

The Bill seeks to provide the necessary legislative backing for the agreements reached between the various higher education institutions in South Australia for the restructuring of the higher education sector. There are four such agreements:

between the University of Adelaide and Roseworthy Agricultural College relating to the merger of those two institutions;

between the University of Adelaide and the South Australian College of Advanced Education relating to the merger of the city campus of the college with the university;

between the Flinders University of South Australia and the South Australian College of Advanced Education relating to the merger of the Sturt campus of the college with the University; and last but by no means least;

between the South Australian Institute of Technology and the South Australian College of Advanced Education relating to the merger of the institute with the Magill, Salisbury and Underdale campuses of the college to form the University of South Australia.

This Bill provides for the various transfers of staff, students, assets and liabilities associated with this restructuring package. It also provides for the continuity of courses, statutes and by-laws. In addition, the Bill makes some changes to the Tertiary Education Act 1986 which are consequential upon these mergers, and also to The Flinders University of South Australia Act and The University of Adelaide Act. This Bill is very much about implementing the agreements between the institutions and does not seek to go beyond that task.

Clause 1 is formal. Clause 2 provides for commencement by proclamation.

Clause 3 defines 'commencement day' as the day on which this Act comes into operation. 'Real property' is defined to mean any interest in land.

Clause 4 defines the references to the two institutions (Roseworthy and Adelaide University) the subject of this Part.

Clause 5 repeals the Roseworthy Agricultural College Act.

Clause 6 vests the whole undertaking of Roseworthy College in the University of Adelaide. The exemption from council rates given to Roseworthy under its Act is continued.

Clause 7 transfers the staff of the college to the university. The transfer has no affect on an employee's remuneration, term of office, leave rights or continuity of service.

Clause 8 entitles a ollege employee who is a member of the South Australian Superannuation Fund either to remain in the Fund or to cease membership and preserve his or her benefits in the fund. The university is, until it enters into the necessary arrangements with the Superannuation

Board, liable for the employer's component of all entitlements for which the college was liable up until the commencement day, and for that component of entitlements accruing to the employee after that day.

Clause 9 transfers college students across to the university and also requires the university to continue the courses in which they were enrolled until such time as those students duly complete the courses. Students who had completed a course with the college, or who complete the course shortly after the commencement day, will get an award in the name of the college or in the name of the university and the college, if the student so elects. All other college students who complete their courses at the university will get the appropriate award from the university, unless, in the case of a student who completes his or her course before 31 December 1985, he or she elects to take an award in the name of the college, or in the name of the university and the college. Graduates of the college are, for the purposes of The University of Adelaide Act, deemed to be graduates of the university.

Clause 10 preserves the statutes and by-laws of the college, except those that relate to the governing body of the college. The university may vary or revoke such a statute or by-law as if it had been made by the university.

Clause 11 deems references to the college in any instrument (including a will) to be a reference to the university. This deeming provision does not defeat an express 'gift over' in a will or trust deed in the event of the college ceasing to exist.

Clause 12 requires the university to meet the reporting obligations that the college would have had, had it remained in existence.

Clause 13 requires the university to use its best endeavours to implement the relevant merger agreement, to the extent that the agreement is not in conflict with the Act.

Part III deals with the merger of the three campuses (Underdale, Magill and Salisbury) of the South Australian College of Advanced Education with the Institute of Technology to form the new University of South Australia.

Clause 14 provides the necessary definitions.

Clause 15 repeals the South Australian Institute of Technology Act 1972 and the South Australian College of Advanced Education Act 1982.

Clause 16 vests in the new university all the undertaking of the institute, all the property attributable to the three relevant campuses of the college and such of the personal property and other rights, interests and liabilities as are attributable to the general administration of the college. The property and liabilities attributable to general administration are to be held jointly with the two other universities, and will be divided between them by mutual agreement.

Clause 17 effects a transfer of the staff of the institute, the staff of the three relevant college campuses (except employees engaged in general administration) and such of the general administrative staff of the college as are assigned by the Minister to the university. (The Minister must consult with all relevant institutions before making such an assignment—see clause 42.)

Clause 18 provides the same superannuation provision as in Part II.

Clause 19 transfers students and courses and makes the same provision for the giving of awards to these transitional period students as are contained in Part II, except that students who have completed their courses at the institute or the college will get an award from the university in the name of the college.

Clause 20 preserves all relevant statutes and by-laws of the institute and the college.

Clause 21 deems all references to the institute in any instrument to be references to the university.

Clause 22 similarly deems all references to the college in a will, deed of gift or trust deed, to the extent that those references relate to or benefit the three relevant campuses, to be references to the college. References to the college generally are deemed to be references to the new university. Again, this provision is subject to any express provision to the contrary in a will or trust deed.

Clause 23 requires the new university to fulfil the institutes and the college's annual reporting obligations.

Clause 24 requires the new university to use its best endeavours to implement the relevant merger agreement.

Part IV provides identical arrangements for the merger of the city campus (Kintore Avenue) of the college and the University of Adelaide.

Part V provides the same arrangements for the merger of the Sturt campus of the College with Flinders University.

Part VI contains sundry provisions of general application.

Clause 41 exempts from stamp duty and registration fees all the vesting of property by or pursuant to this Act.

Clause 42 requires the Minister to consult with and take into account the advice of the relevant institutions before making any assignment of staff pursuant to this Act.

Clause 43 empowers the three universities to divide up jointly held property or liabilities between them.

Clause 44 provides for arbitration if uncertainty or disagreement arises as to the property that is properly attributable to any of the College campuses or to the general administration of the College, or as to the division of that property between the universities.

Part VII amends the Flinders University of South Australia Act to give the Industrial Commission full jurisdiction in relation to all staff of that University, and to provide a definition of 'graduate' so as to include the holders of diplomas and such other awards as the University may specifically prescribe by statute.

Part VIII amends the Tertiary Education Act by deleting references to the Institute of Technology, Roseworthy College and the South Australian College of Advanced Education. The new University of South Australia is included within the ambit of the Act and will nominate one member of the Advisory Council. Membership of the Institute is reduced from 11 to 9, and the new University will nominate a panel of three for the appointment of one member. The Institute's quorum is reduced from six to five.

Part IXa amends The University of Adelaide Act by giving the Industrial Commission jurisdiction in relation to the academic staff as well as the general staff, and is providing the same definition of 'graduate' as is provided for Flinders University.

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

SOIL CONSERVATION AND LAND CARE ACT AMENDMENT BILL

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

SUMMARY OFFENCES ACT AMENDMENT BILL (No. 2)

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

The Hon. ANNE LEVY (Minister of Local Government): I move:

That this Bill be now read a second time.

I seek leave to have the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Bill

This Bill repeals the Pawnbrokers Act 1888. It also amends the definition of 'second-hand dealer' in the Summary Offences Act to ensure that pawnbrokers are covered by that definition.

The Pawnbrokers Act has three basic functions:

- to provide for the licensing of pawnbrokers
- to regulate the activities of pawnbrokers and deter criminal activity
- to protect pawners (and pawnbrokers).

The decision to grant a licence is made by the Local Court following an enquiry into the fitness of the applicant and the premises. The licence is issued by Treasury on the payment of a $50 fee. Treasury plays no other role than this. It has no resources dedicated to the enforcement of those provisions of the Act designed to regulate the activities of pawnbrokers and protect pawners.

The Pawnbrokers Act has scarcely been amended in its 100 years of operation and still applies only to loans of up to $40 (in 1888 twenty pounds would have covered most transactions). Thus the section in the Consumer Credit Act which exempts from the provisions of that Act:

> . . . a licensed pawnbroker who provides the credit in the course of his business as such;

is no protection in respect of transactions involving more than $40. The Crown Solicitor points out that a pawnbroker who undertakes transactions both of more than $40 and of less than $40 requires both a credit providers licence and a pawnbrokers licence.

An investigation of the list of licensed credit providers suggests that none of the 22 licensed pawnbrokers is also a licensed credit provider.

The effect of repealing the Pawnbrokers Act will be to make all pawnbrokers subject to the Consumer Credit Act.

The Commissioner for Consumer Affairs has indicated his support for repeal of the Pawnbrokers Act. He has advised that a new Uniform Credit Act is expected to be introduced into Parliament shortly to replace the Consumer Credit Act. In his view the new Act should not regulate the operations of pawnbrokers.

Instead he suggests that the interests of pawners be protected by a code of conduct which would require pawnbrokers to advise clients whenever sale of their goods was about to take place and to account to the clients for the proceeds. Should pawnbrokers fail to observe such a voluntary code of conduct he would recommend the introduction of a mandatory code under section 97 of the Fair Trading Act.

The Commissioner will shortly be discussing the proposed code of conduct with pawnbrokers. In the meantime no pawnbroker will be prosecuted under the Consumer Credit Act as a result of losing an exemption consequent upon the repeal of the Pawnbrokers Act.

The businesses of pawnbroking and dealing in second-hand goods are carried on together. Therefore it is arguable that pawnbrokers already fall within the definition of 'second-hand dealer' in the Summary Offences Act. However, the Crown Solicitor suggests an amendment to the definition to clarify the matter. The specific powers given to police in the Pawnbrokers Act would then be unnecessary and the police would have the same powers in respect of pawnbrokers as they were recently given with respect to second-hand dealers when the Second-Hand Dealers Act was repealed.

The Police Commissioner has no objection to the repeal of the Pawnbrokers Act under these conditions.

In July 1989 the Under Treasurer wrote to all licensed pawnbrokers advising them that the Government was contemplating repeal of the Pawnbrokers Act. He also outlined briefly the proposals of the Commissioner for Consumer Affairs for a voluntary code of conduct and mentioned the possibility that pawnbrokers would formally be brought within the definition of second-hand dealer in the Summary Offences Act. The letter invited comments from pawnbrokers on these proposals.

One pawnbroker responded in writing expressing the view that the Pawnbrokers Act was the most suitable way of protecting the interests of the pawner and the pawnbroker. He argued that it provided a basis upon which disputes between parties could be settled and opposed deregulation of the industry.

Another pawnbroker indicated orally his preference for stricter enforcement of the Pawnbrokers Act against unlicensed pawnbrokers.

The Government is confident that the transfer of responsibility for pawnbrokers from Treasury to the Department of Public and Consumer Affairs will provide a better basis for regulating the activities of pawnbrokers and for providing protection for both parties. The Government does not consider that a separate Act of Parliament is necessary for this purpose and considers that the proposed voluntary code of conduct is the best approach. If necessary a mandatory code will be introduced.

The licensing year for pawnbrokers begins on 1 August. Therefore it has been necessary to ask pawnbrokers to renew their licences for 1990-91 in the normal way. Should Parliament agree to pass this legislation the Government will refund the $50 licence fee to each licensed pawnbroker.

Clauses 1 and 2 are formal.

Clause 3 amends the definition of 'second-hand dealer' in section 49 of the principal Act to make it quite clear that pawnbrokers are included in that definition.

Clause 4 amends section 64 of the principal Act. This amendment is unrelated to the subject matter of the other provisions of the Bill. It is consequential on amendments to the Road Traffic Act 1961, made by the Road Traffic Act Amendment Act 1989 (Act No. 25 of 1989). Section 10 of that Act replaced sections 146, 147, 149 and 150 of the Road Traffic Act with new sections. The substance of former section 147 is now contained in new section 146 and it is therefore necessary to change references in section 64 to section 147 of the Road Traffic Act to section 146 of that Act.

Clause 5 repeals the Pawnbrokers Act 1888.

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

ROAD TRAFFIC ACT AMENDMENT BILL (No. 3)

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

ADJOURNMENT

At 10.32 p.m. the Council adjourned until Thursday 8 November at 2.15 p.m.