LEGISLATIVE COUNCIL

Thursday 8 November 1990

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

PUBLIC WORKS COMMITTEE REPORT

The PRESIDENT laid on the table the following report by the Parliamentary Standing Committee on Public Works, together with the minutes of evidence:

State Transport Authority Maintenance and Bus Depots, Mile End South.

PAPER TABLED

The following paper was laid on the table:

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

Tourism South Australia—Report, 1989-90.

QUESTIONS

CURRICULUM GUARANTEE

The Hon. R.I. LUCAS: I seek leave to make an explanation before asking the Minister representing the Minister of Education a question about the curriculum guarantee.

Leave granted.

The Hon. R.I. LUCAS: During the election campaign last year Premier Bannon gave on behalf of his Government to schools a firm commitment that the curriculum guarantee package would be extended beyond 1990. In fact, in a facsimile from the Institute of Teachers' Mr David Tonkin to all schools on the day before the election, Premier Bannon is quoted as saying:

Students are guaranteed that, in 1990 and beyond, the 1989 curriculum is the absolute minimum offering.

I shall quote another two paragraphs from that curriculum guarantee bulletin, as it was called, which was faxed to all schools on the Friday before the election last year, for maximum effect. David Tonkin, as President of the Institute of Teachers, states:

There has been some concern among schools about the extent of the curriculum guarantee after 1990.

After negotiations with SAIT, the Government has undertaken to extend the guarantee beyond 1990.

Then the quotation from Premier Bannon is included in the fax. Mr Tonkin then further commented:

The Government's commitment provides the reassurance and the stability that schools and parents have been seeking.

Similarly, on 17 October 1989 the Director-General of Education, Dr Ken Boston, stated:

The position (after 1990) as far as we are concerned will remain unchanged or improved. The curriculum guarantee is precisely that: maintaining at least what is being done and improving it.

My question to the Minister is: Will the Bannon Government give a commitment that it will keep its major education election promise made to all students and schools that his Government's curriculum guarantee package promise would be extended beyond 1990?

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

RESIDENTIAL TENANCIES TRIBUNAL

The Hon. K.T. GRIFFIN: I seek leave to make an explanation before asking the Minister of Consumer Affairs a question about the Residential Tenancies Tribunal.

Leave granted.

The Hon. K.T. GRIFFIN: A Mrs L. Gebhardt of Northfield is a widow and a pensioner who rented a furnished granny flat attached to her house to a woman who is now in prison. Whilst the tenant was in prison the tenant's boyfriend has been living in the flat even though it was not leased to him. Mrs Gebhardt says the flat is filthy—wine bottles everywhere inside, paper and other rubbish all over the place, bed linen unwashed for eight months, a crashed car under the carport for the past three months leaking oil everywhere, and cockroaches crawling around the verandah. State and Federal Police periodically attend at the premises to talk with the tenant's boyfriend.

Mrs Gebhardt is now terrified to go outside her house when the tenant's boyfriend is around—he is frequently drunk, is abusive and uses volumes of foul language. Mrs Gebhardt sought some advice from the Residential Tenancies Tribunal about how to get the tenant and her boyfriend out, and was told that she would have to give four months notice. She did that. On that occasion the officer was helpful but, on a subsequent occasion, reduced Mrs Gebhardt to tears after she had packed up the tenant's clothes and delivered them to the tenant's mother for safekeeping. The tenant complained to the Residential Tenancies Tribunal and the officer phoned Mrs Gebhardt telling her she had no right to do anything with the clothes and was required to get them back immediately to the flat.

Mrs Gebhardt sought an early hearing before the Residential Tenancies Tribunal to try to get rid of the tenant and her boyfriend. The tenant was still in gaol but wrote a letter to the tribunal, which the prison social worker brought to the hearing in June 1990 and presented to the tribunal. In Mrs Gebhardt's words, it contained a number of lies, but when she tried to answer the tribunal, she was told to sit down and keep quiet. She was given no chance to respond to the tenant's letter. She says she was made to feel like a criminal.

Even though the boyfriend was present at the hearing, he said he had not received the notice to quit. The tribunal told Mrs Gebhardt and her daughter that they ought to go home and do their arithmetic because, instead of giving 120 days notice to quit, Mrs Gebhardt had only given 119 days notice. So she went home and sent another notice to quit to the tenants starting the process all over again. She had to see a lawyer (that cost her $100), she hired a process server to serve the notice on the boyfriend and she has engaged a real estate agent to handle the flat.

The date when the tenant and boyfriend must quit is 16 November, but Mrs Gebhardt fears they will not leave then, so there will be more delay. When they finally go she has been told she has to store any belongings left in the flat (including the crashed car if it is not moved) at her expenses for two months. On an occasion when Mrs Gebhardt tried to talk to the tenant's social worker at the prison where she was an inmate to try to sort out some of the problems associated with the tenancy, the social worker told her not to ring again and hung up. So, Mrs Gebhardt feels very upset at the treatment she is getting all round. She is on a part pension because of the income from the flat she has been meant to receive, but she has already told the Department of Social Security that after 16 November she will never rent the flat again and suffer these traumas and will instead go on to a full pension.

My question to the Minister is: What steps will the Minister take to ensure that this matter is fully investigated, that Mrs Gebhardt receives fair treatment and that her problem is resolved quickly?

The Hon. BARBARA WIESE: I will certainly ensure that the matter is investigated fully, and that a report is provided to ensure that, if action taken by officers of the Department of Public and Consumer Affairs has been inappropriate, it be rectified. In saying that, I point out to the Council—and I am sure that the Hon. Mr Griffin would be aware of this and would agree with me—that, in the vast majority of cases where issues are brought to the Residential Tenancies Tribunal and where matters are raised by one party or the other, they are handled well and resolved in almost every case to the satisfaction of the people involved. I make that statement as background to the work of the organisation. I have no knowledge at all about the case referred to, and I will seek a report on it and bring it back to the Council.

GRAND PRIX

The Hon. DIANA LAIDLAW: I have two short questions for the Minister of Tourism, and I appreciate that she may need to bring back a reply. Will the Minister provide information on how many reservations for rooms were made by Tourism South Australia for the Grand Prix period for interstate and overseas visitors, and at what hotels in the Adelaide area and at what cost? Also, will the Minister investigate advice which was provided to me earlier today from a source within TSA that the number of anticipated guests either did not arrive in Adelaide or did not check into assigned accommodation, and that some 20 staff from TSA occupied some of the reserved rooms at the Grand Hotel, Glenelg, and the Hindley International Hotel in the city during the Grand Prix period?

The Hon. BARBARA WIESE: I will have to seek a report on that matter and I will bring it back for the Council.

CONSUMER POLICY

The Hon. J.C. BURDETT: I seek leave to make a brief explanation before asking the Minister of Consumer Affairs a question on the subject of consumer policy.

Leave granted.

The Hon. J.C. BURDETT: In the September-October 1990 issue of the publication *Consumer's Voice*, there appears a review of a book *South Australia's Consumer Laws* by S.K. Trenowden. The review is written by Anthony P. Moore, Associate Professor of Law, University of Adelaide. In his review he says:

> The call for amendment to the Trade Practices Act relates to the more general themes set out by the author. He accurately describes the period between 1965 and 1975 as one of South Australian innovation and commitment and the following decade (1976—1986) as one of administrative refinement. Today South Australian policy making and administration in the consumer protection area has been poorly rated, even on an interstate comparison. It would be unfair to judge a new Minister (Barbara Wiese) too harshly at this point. It is, however, difficult to avoid the conclusion that the strong articulation of consumer interests is seen as a threat to the economic stability of the State. Business operators used to complain of living in the murky end of a test tube. Certainly, that complaint no longer has substance.

Further down in the article he says:

> It is scandalous that South Australia has not provided a genuine system of small claims tribunals.

The Hon. C.J. Sumner: We have a small claims court. What's he talking about?

The Hon. J.C. BURDETT: Okay.

The Hon. C.J. Sumner: Write him a letter and tell him he is ignorant. He doesn't know what he is talking about.

The PRESIDENT: Order!

The Hon. J.C. BURDETT: Before the out of order interjection of the Attorney-General, I was intending to come to that point. I will repeat the statement:

> It is scandalous that South Australia has not provided a genuine system of small claims tribunals.

The author, who is the Associate Professor of Law—

The Hon. C.J. Sumner: He ought to get back to the university, because he does not know what he is talking about.

The Hon. J.C. BURDETT: The author obviously does know what he is talking about. He is the Associate Professor of Law at the University of Adelaide.

The Hon. C.J. Sumner: He obviously does not know what he is talking about.

The Hon. J.C. BURDETT: He obviously does. I am sure that he is not referring to the small claims court; he is referring to a system of small claims tribunals in the various consumer areas. He is obviously well aware of the existence of the small claims court and he is talking about other matters.

The Hon. C.J. Sumner interjecting:

The Hon. J.C. BURDETT: If the Attorney-General wants to say that the Associate Professor of Law at the University of Adelaide does not know what he is talking about, that is fine by me.

Members interjecting:

The PRESIDENT: Order!

The Hon. J.C. BURDETT: I suspect that the Attorney-General is wrong. My questions to the Minister of Consumer Affairs relate, first, to the criticism that consumer interests are no longer looked after. On that point, I ask the Minister if she can tell the Council what her Policy Research Division is doing about researching areas which are needed for consumer protection in South Australia to protect the particular interests of consumers.

Secondly, in relation to the second quotation about small claims tribunals, does the Minister have in progress any procedure to investigate the type of genuine system of small claims tribunals about which the author spoke?

The Hon. BARBARA WIESE: I suspect that the author of this article has probably taken his information from a national survey that was conducted, as I recall, late last year or early this year by the Consumers Association of Australia. That is an annual survey conducted by that organisation of the Government consumer affairs organisations around the country. In that survey the South Australian Department of Public and Consumer Affairs rated very poorly on a number of measures.

The fact is that the results of that survey were quite inaccurate in many respects and really reflected very badly on the organisation that made the assessments. I presume that many of the conclusions drawn by the organisation were drawn from a position of ignorance, because numerous issues have been taken up by the South Australian Government, particularly by my predecessor when he was the Minister of Consumer Affairs, and instituted in this State for the benefit of consumers and they were not recognised at all by the survey.

I must say that subsequently we have taken up this matter in no uncertain terms with that organisation, and I certainly hope that, at the end of this year when a similar survey of Australian consumer affairs organisations is conducted, accurate information will be reflected about the work of the South Australian Department of Public and Consumer Affairs.

As to the question of small claims tribunals, etc., the writer of the article does not seem to appreciate that we have, and have had for very many years in South Australia a small claims court. He does not seem to appreciate that we have a Commercial Tribunal which has been operating very effectively in the interests of consumers in the matter of small claims on a range of issues. So, unless the honourable member or the critic whom he quotes can be a little more specific about what they see as shortcomings in the South Australian system, it is very difficult for me to be more specific. However, I would argue that, when it comes to various aspects of consumer protection, the services provided in this State are as good as or better than those existing in most other States of Australia.

The Hon. J.C. BURDETT: As a supplementary question, I ask the Minister to answer the first question, which was: is anything being done about policy formulation in regard to consumer protection?

The Hon. BARBARA WIESE: Of course things are being done about the question of policy formulation for consumer protection. One of the key roles and functions of the Department of Public and Consumer Affairs is to keep current legislation under review; to keep in touch with what is happening in other places; and to keep in touch with the things that are happening in the community which may require some action where action is not currently being taken. Such issues are constantly under review, and recommendations come forward from time to time about changes that ought to take place. That is reflected, in some cases, by administrative change within the department as to how issues are addressed and, on other occasions, will result in legislation being brought before the Parliament.

MOUNT LOFTY RANGES SDP

The Hon. I. GILFILLAN: I seek leave to make a brief explanation before asking the Minister of Local Government, representing the Minister for Environment and Planning, a question about the supplementary development plan for the Mount Lofty Ranges.

The Hon. I. GILFILLAN: Early in September this year, an interim supplementary development plan for the Mount Lofty Ranges was introduced. That plan effectively put a freeze on development, so that proper development controls could be formulated without environmental concerns being compromised in the meantime. The consultation period for that SDP was to run until 23 November, another fortnight from now. In other words, the public had until that date to make submissions.

Today, the Minister for Environment and Planning announced that a new interim SDP for the Mount Lofty Ranges had been signed by the Governor. This relaxes, in some instances, the ban imposed by the first SDP. Within a short space of time today, I was contacted by a number of people concerned that the public consultation period for the original SDP had not yet expired.

People wanted to know how the Minister could have considered submissions on the first SDP when she formulated the new, overriding one, given that there were still two weeks before the comment deadline. The Minister has announced that the public will have until 23 January to comment on this new interim SDP. My questions to the Minister are:

1. What is the legal position of superimposing an SDP while a previous SDP is still in force and open for public comment?

2. What confidence can the public have in the Minister's undertakings that she will continue community consultation?

3. What consideration was given to public comments before the decision was made to introduce the new interim SDP superseding the previous SDP prematurely?

4. What assurances will the Minister give residents of the Mount Lofty Ranges that, between now and the end of the consultation period for the new interim SDP, 23 January 1991, yet another SDP will not be introduced?

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

DOMICILIARY CARE FOR THE AGED

The Hon. L.H. DAVIS: I seek leave to make a brief explanation before asking the Minister of Tourism, representing the Minister for the Aged, a question about domiciliary care for the aged.

Leave granted.

The Hon. L.H. DAVIS: The domiciliary care and rehabilitation needs of the elderly and the physically and intellectually disabled in the Adelaide metropolitan area are met by Domiciliary Care and Rehabilitation Services, the Royal District Nursing Society of South Australia, Meals on Wheels, local government officers and a range of volunteers. Of course, care is also provided for the terminally ill who are living at home.

There is clear evidence of a crisis in the delivery of home services, particularly to the aged. The Royal District Nursing Society of South Australia has open waiting lists for its home nursing services for the first time in its 96 year history. In the southern suburbs, there is a projected 40 per cent increase in persons aged 75 years and over during the next decade. This area encompasses a number of suburbs, including Glenelg, Brighton, Unley, Happy Valley, Mitcham, Marion, Noarlunga and Willunga.

Published data show that Southern Domiciliary Care and Rehabilitation Services visits 2 300 clients each month, 60 per cent of whom are over 75 years of age, 40 per cent of whom are living alone and 70 per cent of whom are women. However, the lack of resources has meant that the sharp but predictable growth in demand for services cannot be properly catered for.

A paper published within the last year by Dr Elizabeth Hobbin, Medical Director of Southern Domiciliary Care and Rehabilitation Services, and Mrs Elizabeth Kalucy, Research Officer for that same area, clearly underlines that. In their findings they mentioned that clients who require home cleaning services may have to wait for up to three months. An elderly man with a terminal illness was discharged from hospital to his home where he lived with his wife. Even with 24 hours notice from the general practitioner, the service could not visit the client to assess his needs and was unable to provide home help, paramedical aid for showering and toileting, and mobility and showering equipment, until four days after he arrived home. There were also examples of delays in showering of patients and delivering of equipment.

The whole system is tightening up, according to people in this area. Health agencies, volunteers and councils are all trying to do more with less. There is widespread criticism amongst the professionals about the HACC program which was designed to support aged people at home in preference to institutionalisation. Service providers claim that the gap between the rhetoric of the Federal and State Governments, with reference to age care services, and the reality of the

situation is widening. Of course, service providers are caught in the middle, being frustrated and distressed because they cannot provide the services as promised. According to my sources, this in turn has resulted in increased staff turnover, difficulty in recruiting and, arguably, a reduction in the standard of care being provided.

So, my question to the Minister is: what steps has the Government taken to address the matters raised with respect to the crisis which exists in domiciliary care and rehabilitation services for the aged, terminally ill and physically and intellectually disabled?

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

INTERPRETING SERVICES

The Hon. J.F. STEFANI: I seek leave to make an explanation before asking the Attorney-General, representing the Minister of Ethnic Affairs, a question about interpreting services.

Leave granted.

The Hon. J.F. STEFANI: In the 1989-90 budget the Bannon Government announced a major revamp of the language services of the State Government. During the 1989 election, in a written message, the Premier, Mr Bannon, advised the people of South Australia as follows:

> The Bannon Government will continue to provide strong support for language services in the Government sector, for the community, and for business. The Bannon Government recognises that access to interpreting and other language services is vital both socially and economically. Reflecting this, the Government has undertaken a major revamp of its language services creating a service which is recognised as a role model nationally. $485 000, including a capital component of $200 000, has been earmarked to establish a centralised facility which will improve professional interpreting and translating.
>
> The new Language Services Centre will also provide interpreters on a fee service basis to the community and industry. With increasing efforts to promote overseas exports the Government is keen to ensure that business will have access to top class language services to meet its needs. The community and business will be able to utilise a highly professional and dedicated service in interpreting and translating.

Contrary to its professed support for the Language Services Centre, the Bannon Government recently produced a video entitled *Opportunity South Australia*, which the Premier utilised during his recent overseas tour.

The manager and senior staff of the Language Services Centre were totally unaware that the Government had engaged outside interpreters for this video. The interpreting for this promotional video was not carried out by the highly qualified staff of the Language Services Centre, who are required to hold NAATI Level 3 qualifications. My questions are as follows:

1. Who authorised the interpreting of this Government video?
2. Why did the Minister bypass the Government Language Services Centre?
3. Was the interpreter engaged to perform this work registered as a NAATI Level 3 interpreter?
4. Was a professional fee paid? If so, what was the amount involved?
5. Will the Minister explain his apparent lack of confidence and support for the Language Services Centre?

The Hon. C.J. SUMNER: The answer to the last question is that there is no lack of confidence in the Language Services Centre and the suggestion from the honourable member to the contrary is ridiculous. However, I will get answers to the specific questions and bring back a reply.

The Hon. J.F. Stefani interjecting:

The Hon. C.J. SUMNER: The manager doesn't think so.

FIRE CONTROL

The Hon. PETER DUNN: I seek leave to make a brief explanation before asking the Minister representing the Minister for Environment and Planning a question about fires both in and outside Government parks.

Leave granted.

The Hon. PETER DUNN: Just yesterday, some 80 square miles of Flinders Chase National Park on Kangaroo Island was burnt, and I understand that it is still alight. There was an area of 30 000-plus hectares of land burnt out, some of it parkland, on northern Eyre Peninsula. I am informed by local CFS personnel that much of these areas could have been saved from uncontrolled burning if local CFS experience and management had been observed, both during and before the fires started. Conflict has arisen between CFS volunteers, national parks personnel and CFS regional directors, and this conflict has manifested itself across the State.

The issue of who is in control of fires and who understands the area in these circumstances seems to be in dispute. Further investigation indicates that little damage has been done, other than the burning out of large areas of Flinders Chase and northern Eyre Peninsula, in particular, Kooyerdoo Station, some park and one property. However, had these fires broken out later in the season, when there was more dry material, the results could have been catastrophic. Local farmers and CFS personnel have asked me to report to the Minister that fire control practices, such as mosaic burning and cold control burning, be implemented immediately. My questions to the Minister are:

1. Will the Minister accept that these fire control strategies should be implemented immediately?
2. Will the Minister allow local CFS authorities to take control of fires when they are burning in their areas?

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

STATE ASSETS

The Hon. I. GILFILLAN: I seek leave to make a brief explanation before asking the Attorney-General, representing the Treasurer, a question about State assets.

Leave granted.

The Hon. I. GILFILLAN: The total value of the State's assets, according to figures taken from March this year, are in excess of $35 billion. Approximately 80 per cent of this is controlled by eight Government agencies, such as ETSA, E&WS, Highways Department and the Health Commission, to name a few. The Chairman of a task force established by the Government to prepare strategies on asset replacement, Mr Bill Cossey, has recommended to the Premier that the State Government must reduce its overall asset stock. He says that Government cannot afford replacement and maintenance costs associated with its current asset levels unless it looks to alternative methods of maintenance through the use of advanced technology to extend the life of assets. According to the Cossey recommendations, key considerations for asset maintenance are the condition of the asset, the potential for failure, the cost of repair work and refurbishment costs.

Another recommendation is that Government ensure cooperation between agencies to reduce the potential for duplication in costs and skills. The most significant rec-

ommendation is that of substantial increases in the provision of funding for research and development in creative and innovative technology, multi-skilling and retraining of the work force to ensure a longer and more efficient life for State assets. Unfortunately, State allocation of funds for R&D is extremely low. In fact, R&D expenditure in industry is 20 times lower than agriculture and five times lower than mining, and according to Mr Cossey overall R&D expenditure is extremely low by world standards. My questions to the Attorney are as follows:

1. Will he, representing the Treasurer and the Government, provide detailed figures on all Government funding allocations for research and development undertaken in South Australia directed to extending the life and efficiency of State assets?

2. Will he consolidate the costs of maintenance and replacement of all State assets into one statement so that Government and Parliament can clearly see the enormity of the cost to the State of this situation?

3. Can he detail new and innovative technologies developed with Government funding that are specifically targeted for improving infrastructure and asset maintenance?

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

SMOKE DETECTORS

The Hon. J.C. IRWIN: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister of Emergency Services, a question about the sale of smoke detectors.

Leave granted.

The Hon. J.C. IRWIN: Recently in the media a campaign was conducted encouraging the installation of smoke detectors, particularly in residential homes. Part of the campaign involved the distribution of pamphlets entitled 'Smoke detectors saves lives', which was distributed by the Fire Protection Division of the S.A. Metropolitan Fire Service and promoted the installation of smoke detectors in the home. Subsequent inquiries were made and it was found that smoke detectors were available from retailers and also from the Fire Protection Division.

There is concern on the part of people in the fire protection industry as they believe that the Metropolitan Fire Service should confine its role to its recognised role of fire-fighting and providing advice on prevention matters, and should not have related commercial interests which may be contrary to the provisions of the Fire Brigades Act. My questions are:

1. Has the Minister taken the appropriate corrective measures to ensure that the Fire Protection Division arm of the S.A. Metropolitan Fire Service does not compete with the fire protection industry in selling smoke detectors?

2. Is the reported activity contrary to the provisions of the Fire Brigades Act?

The Hon. C.J. SUMNER: I will refer that question to my colleague and bring back a reply.

LPG PRICES

The Hon. R.I. LUCAS: I seek leave to make an explanation before asking the Minister of Consumer Affairs a question about LPG prices.

Leave granted.

The Hon. R.I. LUCAS: I refer to the recent increases in the price of liquid petroleum gas (LPG), a matter I took up in this Chamber previously on 24 October. I understand, from some further inquiries of the Prices Surveillance Authority, that Middle East tension and an Esso workers industrial dispute at Hastings in Victoria have to some extent contributed to LPG price increases in recent weeks.

However, my office was advised also by the Prices Surveillance Authority officers that 'marketeers' have moved in to capitalise on the current situation. I am told that one major oil and LPG distributor had increased its LPG price to dealers by around 7c a litre. The PSA recently authorised a 3c a litre rise in the price of LPG. However, from late October the ex-Port Bonython price for this product was still around 15c a litre.

By adding on freight and other sundry charges the estimated cost of a litre of LPG would still be only about 21c a litre. Despite this, many consumers in Adelaide and South Australia are still being charged retail prices of up to 33c a litre for LPG. It begs the question, obviously, of whether consumers are being ripped off somewhere along the way. While I am advised that the Minister has no formal jurisdiction over the price of LPG in South Australia, clearly quite sharp rises in the price of the product—for example, a price of 17c to 18c a litre 10 weeks ago, compared to 33c a litre now—must arouse some concern by the Minister and warrant some investigation.

I gather from inquiries of the Office of Fair Trading the Minister can lodge a request with the Prices Surveillance Authority to look into such matters. In fact, her counterpart in Victoria, the Minister for Prices, Mr Mier, last month did more. A report in the *Sun* of 6 October said that Mr Mier had 'taken action' over LPG prices (which had risen from the low 20s a litre to almost 30c a litre) and prices were beginning to fall. The same article also quoted PSA Chairman, Professor Alan Fels, as saying that distributors had been warned the PSA could recommend LPG price controls in the event of profiteering.

The effects of the current and predicted increases in LPG prices affect more than just motorists. LPG is a fuel used widely by small industrial concerns and domestically by many rural residents. Naturally, it is important that any increases in prices are confined to legitimate cost increases and not outright profiteering. My questions to the Minister are:

1. As a result of my 24 October inquiry, has the Minister yet determined whether recent sharp increases in the price of LPG are justified?

2. Has the Minister asked the Prices Surveillance Authority to investigate the reasons behind the recent sharp increases in LPG prices in South Australia and, if not, why not?

The Hon. BARBARA WIESE: The answer to the second question is, no, I have not made inquiries of the Prices Surveillance Authority, but I have sought information about the current situation regarding the price of liquid petroleum gas in South Australia. As the honourable member indicates, it is not a matter over which I have jurisdiction. It is the Prices Surveillance Authority which controls the producer prices for propane and butane liquefied petroleum gases.

Traditionally, Melbourne and Adelaide have had the highest level of competition in the sales of this product, and for that reason there have been lower LPG prices in these two cities than in other States. Recently there has been some increase and, as I understand it, this is largely due to the Esso dispute, which has reduced the availability of LPG. This has enabled companies to charge a greater amount for storage and handling.

On 22 October there was a 3c per litre rise imposed by producers. However, that had only a very minor impact on the retail price of LPG in this State. I am advised by

Department of Public and Consumer Affairs officers that there is no evidence of profiteering in this area in South Australia. Even though there has been a significant price rise in recent times, South Australia's prices are still below those in cities such as Sydney and Brisbane. As at 26 October LPG cost only 14c per litre more there than in Melbourne. It appears that in recent times the influence has been brought about by the Esso dispute although, as I have said, that has not led to huge price rises in this State.

The South Australian Government has, on a number of occasions as I understand it, made representations to the Federal Government on the question of Government taxes on LPG, and on a number of occasions we have argued, on environmental grounds, that the Federal Government should ensure that LPG remains tax free, because it is in everybody's interest that we encourage the use of this product. That is the most up-to-date information I have about this matter, and unless there is a significant shift in the facts that are available to me, I will continue to maintain a monitoring brief on the price of LPG.

Mr WINZOR

The Hon. K.T. GRIFFIN: I seek leave to make an explanation prior to directing a question to the Minister of Consumer Affairs on the subject of the defaulting broker, Winzor.

Leave granted.

The Hon. K.T. GRIFFIN: Hundreds of people invested some $4.3 million with a broker by the name of Winzor. These people are similar to those who lost money they entrusted to Hodby, who was subsequently convicted of fraud and sentenced to gaol. Many of these who have lost money through Winzor are pensioners or superannuants, and many invested their life savings and have now lost all.

When Winzor's default was discovered, some meetings of the creditors were arranged. At one of those meetings I am told that Mr Colin Neave, the former Director-General of the Department of Public and Consumer Affairs, told the creditors that the Agents Indemnity Fund would pay the creditors 100c in the dollar when Winzor was convicted and there was sufficient in the fund to do so. As I recollect, Winzor was convicted several weeks ago.

A creditor who lost $200 000 says he telephoned the Department of Public and Consumer Affairs and was told there was $8.5 million in the fund, but that payment to creditors would be made only by instalments and would not commence until 'early 1991'. His response to that was: 'Well, early 1991 can mean anything up to June'. When asked why earlier payments could not be made, the department said that the fund is invested for fixed terms of three months and more and it was not possible to make the money available any earlier. Again, the response of the constituent who telephoned the department was that they should, in fact, seek to terminate the investment earlier rather than let it run its full term. When asked why the payments could not be made in a lump sum the officer to whom the constituent spoke said it was policy not to do so but to pay by instalments.

Hardship is being experienced by many of the creditors and the concern is that, as with some Hodby creditors, some will be dead before they get their money back. My questions to the Minister are:

1. If there is $8.5 million in the fund as claimed, why cannot lump sum payments in full be made?

2. If payments to creditors are to be made by instalments why cannot payments be commenced immediately, recognising that creditors will not be paid interest—and delay is hurting them while the fund benefits by interest receipts on funds invested during the period of delay?

The Hon. BARBARA WIESE: One of the issues that must be considered here is that the claims against Winzor are not the only claims that will be made upon the Agents Indemnity Fund. The fund must be managed in a responsible way overall in the interests of consumers whose funds have been affected—by brokers other than Winzor. That is an issue that the officers of the department must take into consideration.

As to the plans for payment of claims in the case of Winzor, I will need to seek a report on the current status of the claims and the fund, and I will bring back a report as soon as I am able to do that.

The Hon. K.T. GRIFFIN: As a supplementary question, can the Minister indicate what other claims are pending in relation to the fund? Can she acknowledge that all the Hodby creditors have been paid and that it is likely that claims in relation to one other broker for about $1 million might be the only claims outstanding to be made against the fund?

The Hon. BARBARA WIESE: I can confirm that the final payments to the Hodby claimants have been made, but I understand that there are still some outstanding claims for Swan Shepherd to be made; also claims in respect of P.F. Warner and R.J. Nicholls are anticipated, and probably one other. There are still other matters to be dealt with. As I have indicated, that means that careful consideration must be given to these matters at the same time. I will certainly bring back a report that gives information about all these matters.

COMMON EFFLUENT DRAINAGE SCHEMES

The Hon. PETER DUNN: I understand that the Minister of Local Government has an answer to a question that I asked on 25 October on the subject of common effluent drainage schemes.

The Hon. ANNE LEVY: Yes, and I seek leave to have it inserted in *Hansard* without my reading it. It is fairly lengthy with tables and detailed appendices.

Leave granted.

A list of priorities for funding septic tank effluent disposal schemes does exist; however it is currently under review for re-examination of the relative priority of each township, because of the time period since its inception in 1980 and the additions that have been made to the list since then. The priority list has, despite some minor reordering, remained relatively constant for the past three years.

The townships of Kingston SE and Wolseley were granted funds to carry out design work. These allocations were not made in the order suggested by the 1980 listing but were based upon a knowledge of the changed level of need in these areas. The townships of Waterport, Kersbrook and Monash were also allocated funds to carry out design work. Applications for these towns were received after the establishment of the 1980 listing. These townships were able to demonstrate a high level of need based on public and environmental health considerations.

Reordering of priority occurred, first, to meet specific areas of need where public and environmental health and/or pollution of water catchment and ground water reserves is of prime concern; secondly, where the availability of funds dictated the order of project commencement, that is, where smaller projects have commenced before larger more costly projects; and, thirdly, where problems have been

encountered during the planning and approval stages, resulting in delays in the completion of design documents.

The availability of funds for construction of schemes is a matter of continuous communication between officers of the Department of Local Government and councils, both verbally and in writing. The best possible estimate of priority is given in each instance, however all advice is prefaced by the condition 'dependant upon the availability of funding'. This is of course necessary because the appropriation to the program is made annually. Once the review of relative priorities is completed, it is intended that all councils will be advised of the priority allocated to townships in their area and the anticipated period when funding is likely to be available for construction.

I provide for the information of the honourable member the following tables:

1. priorities established in 1980 by the Drainage Liaison Committee;

2. priorities for schemes currently in the design stage; and

3. townships for which applications have been received, but design work not yet commenced.

TABLE 1
STED SCHEMES SUBSIDY PRIORITIES
(as at 1980)

Category 1:
Townships for which subsidy finance is expected to be available from 1980 to 1985:

Meadows	Glossop
Strathalbyn	Karoonda
Littlehampton	Kalangadoo
Freeling	*Macclesfield
Echunga	Greenock
Balaklava	Clarendon
Ardrossan	*Peterborough (commercial area)
Nairne	Snowtown
Mundulla	Wudinna
Bute	Lucindale
Hawker	Tumby Bay
Hamley Bridge	Blyth
Keith	*Wallaroo

*Not yet constructed

Category 2:
Townships for which subsidy finance is expected to be available from 1985 to 1989:

*Laura	Swan Reach
Cowell	Coffin Bay
Milang	Parilla
Yorketown	Coonalpyn
Wilmington	Kangarilla
Kingston SE	Morgan
North Shields	Minnipa
Minlaton	Wolseley
One Tree Hill	American River
Port Neill	Moorook
Moonta	Kingston OM

*Scheme under construction; all others awaiting funding.

Category 3:
Townships for which subsidy finance is expected to be available after 1989:

Port Wakefield	Edithburgh
Stansbury	Coobowie
Wool Bay	

Category 4:
Townships for which applications were received after 30 November 1979. These will be placed in appropriate categories after inspections have been carried out and assessments made:

Booleroo Centre	Tarpeena
Melrose	Orroroo
Wirrabara	

S.T.E.D. SCHEMES
Priorities for Schemes in Design Stage

Town*	Previous Priority**	Status	Comments
Macclesfield	Category 1	Design completed	High failure watercatchment
Waterport	***	Design work near completion	High failure
Streaky Bay	Category 4	Design work near completion	Coastal pollution water resource
Wallaroo	Category 1	Design near completion	High failure rate medium density
Kersbrook	***	Selection of Lagoon site	High failure watercatchment
Wolseley	Category 2	Preliminary design completed	High failure rate poor soil
Milang	Category 2	Design in progress	Pollution of lakes
Kingston SE	Category 2	Preliminary design completed	Pollution of subsurface waters
Yorketown	Category 2	Design in progress near completion	Medium failure rate Hospital disposal
Monash	***	Design work in progress	High failure, high tourist
Cowell	Category 2	No work commenced	Coastal pollution
Peterborough	Category 1	Design completed	Lacks major community support

* Listed in general order of priority
** Priority allocated by the Drainage Liaison Committee and the South Australian Health Commission in 1980
*** Priority allocated since 1980, by South Australian Health Commission

S.T.E.D. SCHEMES
Applications Received: Design Work Not Yet Commenced

Town	Date of Application
Allendale East	7/86
American River	7/73
Auburn	3/84
Beachport	2/90
Blanchetown	7/87
Booleroo Centre**	12/79
Carrickalinga	12/84
Charleston	6/87
Clayton	6/90
Coffin Bay	/75
Coober Pedy	10/86
Coobowie**	9/74
Coonalpyn	6/65
Eden Valley*	6/90
Edithburg**	9/74
Georgetown*	6/66
Gladstone	1/85
Kangarilla**	1/76
Kingston on Murray	4/78
Mallala	6/85
McLaren Flat	6/85
Melrose**	12/79
Middleton	2/86
Minlaton	6/72
Minnipa	5/68, 3/79
Moonta	1/77
Moonta Bay	4/86
Moorook	4/78
Morgan	4/72
Napperby	6/87
Normanville	12/84
North Shields	/75
One Tree Hill	6/72
Orroroo	12/79
Palmer*	6/90
Parilla	5/67
Penrice	9/89

Town	Date of Application
Port Hughes	4/86
Port Broughton	4/85
Port MacDonnell	3/81
Port Neill	3/70
Port Vincent	7/89
Port Wakefield	4/71
Quorn**	7/80
Ramco Heights	1/83
Roseworthy	10/88
South End	8/83
Spalding	7/87
Springton	4/86
Stansbury**	9/74
Stockwell	4/83
Swan Reach	3/71
Terowie*	6/66
Truro	11/85
Tungkillo**	6/90
Two Wells	1/85
Verdun	6/87
Virginia	2/81
Wilmington**	12/62
Wirrabara**	12/79
Wool Bay**	9/74
Yankalilla	6/66, 12/84

* Application withdrawn by Council
** Application confirmed, Council wish to proceed
(Councils have been asked recently to confirm their commitment to a scheme, or alternatively to withdraw their application).

REGISTRATION CONCESSIONS

The Hon. J.C. IRWIN: I understand that the Minister of Local Government has a reply to a question that I asked on 17 October regarding registration concessions.

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

Leave granted.

My colleague, the Minister of Transport, has advised that changes to motor vehicle registration concessions in the 1990 State budget included discontinuing registration without fee for some vehicles owned by councils and used for the maintenance and construction of roads and for the collection of household rubbish.

Councils will be required to pay registration fees on vehicles such as trucks and utilities. This will bring councils into line with other organisations undertaking similar roadworks and rubbish collection which are required to pay registration fees on such vehicles.

Councils and other owners of vehicles such as graders, tractors, rollers and bitumen layers (which are vehicles specifically adapted for road making) will continue to be able to register those vehicles without fee.

The decision to rationalise motor vehicle concessions does not relate to a question of whether there was any form of abuse of these concessions by local government councils. It is considered reasonable and appropriate that councils should pay similar registration fees as do other organisations undertaking similar work.

However, many councils did endeavour to extend all of their vehicles including sedans, station wagons and utilities used by council overseers and supervisors into the rebatable area.

The overall revenue from the rationalisation of motor vehicle concessions is an estimated $2.97 million in a full year which includes the introduction of a $15 administration fee payable with an application to register or renew those vehicles that continue to be registered at no fee. The total cost of the proposed changes to local government is estimated at $932 000 per annum.

GRAND PRIX BUILDINGS

The Hon. K.T. GRIFFIN: I understand that the Minister of Local Government has an answer to a question relating to Grand Prix buildings which I asked on 6 November.

The Hon. ANNE LEVY: Yes. There has been no formal or informal approach to any Minister or Government officers proposing that certain Grand Prix buildings remain permanently on the Victoria Park Racecourse.

PRIVATE CONTRACTORS

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 about private contractors.

Leave granted.

The Hon. DIANA LAIDLAW: The value of work placed by the Department of Road Transport (formerly the Highways Department) with private contractors for construction and maintenance activities has been progressively reduced in recent years.

The Auditor-General's Report notes that for the year ending 30 June 1987 private contractors undertook work to the value of $41 million of 19.16 per cent of a total budget of $214 million. This proportion fell to $37 million or 17.21 per cent in 1987-88 and to $37 million or 15.04 per cent in 1988-89. Last year the proportion fell further to $35 million or 13.56 per cent with the total value of work undertaken by the Department increasing to 77.13 per cent. So, for the past three years private contractors have received a declining percentage of road and maintenance construction work in this State—a fall from 19.16 per cent to 13.56 per cent last year.

In the past fortnight, I have received calls from both salaried and weekly paid employees of the Department of Road Transport anxious that senior management is proposing wide-ranging redeployment and redundancy packages as part of the considerations of the structural change committee, chaired by the Minister, in his capacity as Minister of Finance. Further to those calls, I note that a fortnight ago the Adelaide City Council passed a resolution that it would give preference to the private over the public sector when hiring contractors in future, recognising that private tenders for council work were disadvantaged at the present time because of tax advantages enjoyed by the public sector. I ask the Minister:

1. Is the structural change committee, which he chairs, considering reversing the trend of recent years by now requiring the Department of Road Transport to adopt a policy of using private contractors to undertake the department's construction and maintenance work, in preference to awarding the lion's share of such work to its own work personnel?

2. If the department has proposed redeployment and redundancy packages in recent times, what arrangements will apply, as it is not apparent from the department's estimates of expenditure for this year that any provision has been made for redundancy payments?

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

SOIL CONSERVATION AND LAND CARE ACT AMENDMENT BILL

Second reading.

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

The object of this small Bill is to add a further transitional provision to the Soil Conservation and Land Care Act 1989, which came into operation on 15 March 1990.

A proposal has been made for the alteration of the areas of several existing soil conservation districts which were established under the old Act by Governor's proclamation. Although the new Act provides that such a district is deemed to be a district under the new Act, it is not absolutely clear that the proclamations under the old Act can still be varied or revoked, as the mechanism for creation, variation or abolition of districts under the new Act is by Ministerial notice published in the *Gazette*. This Bill therefore makes special provision for treating the old proclamations as if they were Ministerial notices under the new Act.

The provisions of the Bill are as follows:

Clause 1 is formal.

Clause 2 inserts a further clause in the schedule of transitional provisions. This clause provides that proclamations constituting soil conservation districts under the repealed Act will be taken to have remained in force and may be varied or revoked by the Minister as if they were notices published by the Minister under section 22. The provisions in section 22 relating to consultation will of course apply to any such variation or revocation.

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

ROAD TRAFFIC ACT AMENDMENT BILL (No. 3)

Second reading.

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 deals with seven distinct matters: the regulation of sporting events on roads; the requirement to report on the operation of random breath testing stations; the banning of the possession, use and sale of radar detectors and jammers; the use of low powered motor cycles and pedal cycles on footpaths by employees of Australia Post; the clarification of duties of drivers. when faced with traffic lights and signs; the detection of driving offences by photographic detection devices; and the power to charge fees for vehicle inspections required under any other Act.

In recent times concern has been expressed by local government, police, sporting organisations and other authorities at the manner in which sporting events are conducted on roads without there being adequate legal provision for such events. The lack of appropriate legislation not only affects those taking part but other road users as well.

Events such as fun runs and cycling events can give rise to a variety of hazardous situations. In the past major events have been controlled by police; however, many minor events, such as a cycling club on a practice run on a weekend, have been carried out without specific provision for adequate supervision and regulation of traffic.

In addition, participants in such events may well have been in technical breach of road traffic laws. Runners are not permitted to be on the carriageway of a road where a footpath is provided. Cyclists in a road race often ride more than two abreast and possibly exceed speed limits; their pedal cycles do not conform with some equipment requirements, for example, no warning device or reflectors and no visible tread on racing tyres.

The Bill addresses these problems by allowing organisers of events to apply to the Minister of Transport for appropriate orders for the closure of roads and exemption of participants from the application of relevant traffic rules. It is intended that the Minister will act through the Commissioner of Police in approving applications and giving orders. As councils are also involved with roads within their areas, consultation with local councils will also be required. Such conditions as are deemed necessary can be imposed in relation to any orders given.

Prior to Cabinet approval being given for this proposal, extensive consultation has taken place involving police, local government, Department of Recreation and Sport, road runners organisations, cycling associations and representatives from the State Bicycle Committee. Organisations and clubs will need to apply to the police for a permit following consultation with local government. Major events can be examined on a 'one off' basis, while it is envisaged that regular events could be approved on an annual basis.

The second part of the Bill relates to breath testing stations and the preparation, within three months after the end of each calendar year, of a report which is laid before both Houses. Three months does not give sufficient time in which to obtain and collate all the information required to go into the report. Extending the time from three to six months will overcome this difficulty.

The third part of the Bill deals with radar detectors and jammers. Radar detectors identify the presence of a traffic radar unit. These devices emit a visual and/or audible warning in advance of the radar beam enabling the driver to adjust the speed of the vehicle according to the legal limit.

Radar jammers operate by emitting impulses which jam the radar unit. It can prevent a reading of the speed of the vehicle or be programmed to give a lower speed reading than that of the offending vehicle. The driver merely continues at the same speed and avoids apprehension.

Legislation prohibiting the use of radar jammers is already in existence under the Commonwealth Radiocommunications Act 1983. However, that law is virtually unenforceable as the offence only relates to the operation of such devices.

Hence a person can only be charged if caught in the act. The State proposals will not be in conflict with the Commonwealth Act. Rather they will be complementary.

Excessive speed is recognised as being a major cause of the incidence and severity of road accidents.

The intent of this provision is to prevent drivers who habitually speed from avoiding detection.

The use of radar speed analysers in a selective enforcement program enables police to dissuade excessive speed by increasing the driver's perception of the risk of detection.

The lowering of a driver's perception of being detected or eliminating it altogether enables an offending driver to exceed speed limits with virtual impunity.

Speed detection cameras are now on trial in this State. As these cameras are activated through existing radar units, it is likely that the use of radar detectors and jammers would increase substantially.

Federal and State Transport Ministers, meeting as the Australian Transport Advisory Council (ATAC) on 25 May 1990, agreed to introduce legislation as soon as practicable to make it illegal to sell, own, use or possess a radar detector. Provisions of the proposed Bill are similar to those in place in Victoria. However, a prohibition on the offering for sale of a radar detector or jammer has been included to ensure that members of the public are not misled on the legal status of these devices.

To enable practical enforcement of a ban in South Australia, it is proposed to administer it under the Summary Offences (Traffic Infringement Notice) Regulations. A fine of $150 is considered appropriate based on existing fines for exceeding the speed limit which are:

up to 15 km/h over the limit $65
between 15 km/h and 30 km/h over the limit ... $129
in excess of 30 km/h over the limit $183

The general penalty provision under the Road Traffic Act is $1 000 where a complaint is taken to court. Mandatory confiscation of the device is proposed in the Bill for any person using or found in possession of a device suspected of being a radar detector or jammer.

To enable the proposal to be effective the Bill contains the following enforcement measures:

Evidentiary assistance for proof that a machine was, in the absence of proof to the contrary, a radar detector or jammer and that it was capable of being used as such. In cases where the fine is not expiated, the matter will go to court and it will be necessary to establish that the machine was a radar detector or jammer. This evidentiary provision will save unnecessary delays.

The ability to access professional assistance in testing and examination of radio communication devices to assist police personnel prove the capability of a device suspected of being a radar detector or jammer. The power to the Crown to seize, retain and test any radar detector or jammer and dispose of the device upon conviction or payment of the expiation fee.

Whilst under existing provisions of the Summary Offences Act police have the power to stop, search and detain any vehicle suspected of containing an object that it is an offence to possess, this Bill proposes that the police may enter land or premises suspected of containing radar detectors or jammers on the authority of a warrant.

The fourth part of the Bill relates to the use of bicycles and low powered motor cycles on footpaths by employees of Australia Post whilst engaged in the delivery of mail. This matter was taken up on a national level as a result of Australia Post submissions. The Australian Transport Advisory Council endorsed a proposal and approved of amendments to the National Road Traffic Code which lays down certain conditions for use of low powered motor cycles on footpaths. Such conditions limit the engine capacity to 110 millilitres and speed of travel to 7 km/h, require that the rider is actually engaged in the delivery of postal articles and that the driver takes adequate precautions and drives in such a manner as to avoid collisions and not cause danger or obstruction to any person or thing and that the rider take the shortest practical route from the carriageway to the point of delivery and return to the carriageway after each delivery.

Queensland has taken up the proposal by adopting all the conditions while New South Wales, Tasmania and Victoria have adopted all but the last condition. Cabinet has agreed that the last condition is impractical. In fact Australia Post employees can already be observed riding along the entire length of the footpath regardless of whether the law permits it or not. Queensland is no exception. This practice has been going on for many years whether a pedal cycle or motor cycle is used. Another variation proposed is to allow a speed limit of 10 km/h for the following reasons—wheelchairs on footpaths are subject to a 10 km/h limit as are vehicles proceeding to and from land abutting a road. Furthermore a speedometer is not accurate at low speeds and graduations of speed are generally displayed in multiples of 5 or 10 km/h.

The fifth part of the Bill relates to the general requirements for drivers at traffic lights and signs. In particular section 76 deals with the general requirements for traffic signs and marks with a requirement that only drivers of motor vehicles must comply with those instructions. It does not extend to the riders of pedal cycles. A legal technicality was also noticed when drafting regulations for the overhead traffic signals for Flagstaff Road. Although the overhead traffic signals have been installed, and operating since October 1989, they could not be referred to as such in regulations as section 76 only refers to signs and marks.

The sixth part of the Bill relates to photographic detection devices. Owner onus legislation came into operation in South Australia on 1 July 1988. Under section 79b (2) of the Road Traffic Act the registered owner of a motor vehicle involved in a red light offence as identified by a photographic detection device is guilty of an offence unless the owner proceeds with certain defence provisions contained in the Act. For instance, where the registered owner is a natural person and proves that he or she was not driving the vehicle at the time, or in the case where the registered owner is a body corporate, the body corporate proves that no officer or employee was driving the vehicle at the time.

These defences are causing some operational difficulties. Where the registered owner is a natural person, the existing legislation does not require the owner to name the driver. Where a body corporate is involved, in practice a statutory declaration is required either stating the name of the officer or employee, or stating that no officer or employee was driving the vehicle at the time.

The existing legislation deals differently with natural persons and corporate bodies. Where the owner is a body corporate and the driver is an officer or employee but cannot be identified as such, the body corporate remains liable. However, where the owner is a natural person, a statutory declaration from the owner stating that the name of the driver is not known is all that is required in practice. This new proposal will require a registered owner who is a natural person to state the name of the person who was driving the vehicle at the time.

At present, a person who is not an officer or employee of a company but who drives a company car is not covered by the owner onus provisions. Changes to the owner onus provisions will include the driver of a company car where that person is not an officer or employee of the company.

However, there will be an 'out' for both natural persons and bodies corporate. In either instance where the identity of the driver is not known a statutory declaration must include a statement as to the reason why the identity is not known.

Proposed changes to the definition of 'registered owner' will extend to include:

the new owner of the vehicle on transfer of ownership where the new owner has not yet been recorded as such by the Registrar; and

a person who has hired a vehicle by virtue of a hire agreement or where a person is in possession of a vehicle due to bailment.

With the proposed introduction of speed cameras, it can be reasonably expected that the volume of follow-up inquiries will increase dramatically. However, these amendments will reduce the necessity of many follow-up actions by the police and therefore result in significant savings in resources.

Finally, this Bill proposes an amendment to the regulation-making power of the Road Traffic Act which will clarify the power to charge a fee for the inspection of a vehicle where that inspection is required under the provisions of another Act.

Clause 1 is formal.

Clause 2 provides for commencement of the Act, except for sections 5 and 13, on a day to be fixed by proclamation. Sections 5 and 13 commence on the day on which the Act is assented to by the Governor.

Clause 3 amends section 5 of the principal Act, an interpretation provision, by inserting a definition of 'radar detector or jammer'. This definition is inserted for the purposes of clause 6. A radar detector or jammer is defined as a device the sole or principal purpose of which is to detect the use of, or prevent the effective use of, a traffic speed analyser.

Clause 4 repeals section 33 of the principal Act and substitutes a new section 33. This authorises the Minister, on the application of an interested person, to declare that an event (which includes any organised sporting, recreational or similar activity, whether a race or not) that is to take place on a road is an event to which the section applies.

The Minister can make an order in respect of such an event closing a road on which the event is to be held and any adjacent or adjoining road for a specified period. The Minister may also (or alternatively) exempt participants in an event from the duty to observe specified road rules while participating. Where the Minister orders a road to be closed for the event, that order can only be made with the consent of every council within whose area the road is situated, and the Minister must advertise that closure (at the expense of the applicant for the order) in two newspapers at least two clear days before the order takes effect.

An order of the Minister may be subject to conditions and renders lawful anything done in accordance with its terms. It can apply to the whole or any part of a road. Clause 4 also empowers members of the Police Force to give such reasonable directions to road users on the day of the event as are necessary for the safe and efficient conduct of the event. Those directions may include clearing vehicles or persons from a road or part of a road or temporarily closing a road or part of a road. It is an offence with a maximum penalty of a fine of $1 000 not to obey such a direction.

Clause 5 amends section 47da of the principal Act, extending the time after the end of each calendar year within which a report on the operation and effectiveness of the section must be prepared from three months to six months.

Clause 6 inserts a new section, section 53b, into the principal Act. The new section makes it an offence to own, sell, offer for sale, use or possess a 'radar detector or jammer' (see clause 3). Members of the Police Force are empowered to obtain a warrant to enter and inspect premises where they have reasonable cause to suspect that an offence against this new section has been committed or that there is a radar detector or jammer or evidence of the commission of an offence against this section. No warrant may be issued by a justice unless the justice is satisfied (on information given on oath) that the warrant is reasonably required. Members of the Police Force are also empowered to seize, retain and test devices that they have reasonable cause to suspect are radar detectors or jammers, and those seized devices are forfeited to the Crown on the conviction of a person for an offence against this section in relation to the device (or on the expiation of the offence by such a person). Forfeited devices can be disposed of by the Commissioner of Police. In proceedings for an offence against the new section, an allegation in the complaint that a specified device is a radar detector or jammer is proof of that fact in the absence of proof to the contrary.

Clause 7 amends section 61 of the principal Act. Section 61 makes it an offence to drive a vehicle on a footpath (unless entering or leaving land adjacent to the footpath). An exception is made in the case of persons in wheelchairs, provided that they do not exceed 10 kilometres an hour. This amendment makes another exception in the case of pedal cycles or motor cycles driven by employees of the Australian Postal Commission, provided that those employees also do not exceed 10 kilometres an hour. The amendment also requires those persons to whom the section does not apply to comply with the regulations.

Clause 8 amends the heading preceding section 75 of the principal Act. The heading currently refers only to traffic lights and signs. It is amended to refer to traffic lights, signals and signs.

Clause 9 amends section 75 of the principal Act. Section 75 requires drivers and pedestrians to comply with the instructions indicated by traffic lights or any signs exhibited with traffic lights. It authorises the making of regulations to define the instructions that traffic lights, or signs exhibited with traffic lights, give to drivers and pedestrians. This clause specifies that the provisions of section 75 also apply to signals exhibited with traffic lights.

Clause 10 amends section 76 of the principal Act. Section 76 requires the driver of a motor vehicle to comply with the instructions indicated by traffic signs. It authorises the making of regulations to define the instructions that the words or symbols on traffic signs give to drivers of motor vehicles. This clause specifies that these provisions of section 76 also apply to traffic signals erected on or near a road for the purpose of regulating the movement of traffic or the parking of vehicles. This clause also amends section 76 to require all drivers, and not just the drivers of motor vehicles, to comply with the instructions indicated by traffic signs or traffic signals.

Clause 11 amends section 79b of the principal Act which deals with driving offences detected by photographic detection devices. Under the section in its present form, the registered owner of a vehicle that appears from evidence obtained through the operation of a photographic detection device to have been involved in one of the listed driving offences is guilty of an offence against section 79b unless one of the following defences is established:

(a) that no such driving offence was in fact committed;

(b) where the registered owner is a natural person—

that he or she was not driving the vehicle at the time;

(c) where the registered owner is a body corporate—

(i) that no officer or employee of the body was driving the vehicle at the time;

or

(ii) that, although an officer or employee of the body appears to have been driving the vehicle at the time, the body has

furnished to the Commissioner of Police, by statutory declaration made by an officer of the body, the name of the officer or employee.

Under the section, where there are two or more registered owners of the same vehicle, a prosecution may be brought against one or against all or some of them jointly as co-defendants. Every person alleged to have committed an offence as registered owner must be given the opportunity to expiate the offence and, if such a person chooses not to expiate and is convicted of the offence, is not liable to be disqualified from holding or obtaining a driver's licence. An offence committed as the registered owner (as opposed to the driving offence) does not attract demerit points.

The clause amends this section in several ways. First, the definition of 'registered owner' is widened so that it includes a person to whom ownership of a vehicle has been transferred but who is not yet registered or recorded as the owner of the vehicle and any person who has possession of a vehicle by virtue of the hire or bailment of the vehicle.

Secondly, the defences available to a person charged with an offence against the section as registered owner of a vehicle are varied. The defence that no driving offence was in fact committed remains in its present form. The further alternative defences provided under the section in its present form are replaced with the following defences:

(a) that the registered owner, or, if the registered owner is a body corporate, an officer of the body corporate acting with its authority, has furnished to the Commissioner of Police a statutory declaration stating the name and address of some person other than the registered owner who was driving the vehicle at the time;

or

(b) that—

(i) if the registered owner is a body corporate—the vehicle was not being driven at the time by any officer or employee of the body acting in the ordinary course of his or her duties as such;

(ii) the registered owner does not know and could not by the exercise of reasonable diligence have ascertained the identity of the person who was driving the vehicle at the time;

and

(iii) the registered owner, or, if the registered owner is a body corporate, an officer of the body corporate acting with its authority, has furnished to the Commissioner of Police a statutory declaration stating the reasons why the identity of the driver is not known to the registered owner and the inquiries (if any) made by the registered owner to identify the driver.

Clause 12 inserts a new section, section 79c, into the principal Act. The new section makes it an offence for a person who does not have proper authority to wilfully interfere with the timing or speed measuring components of, or the seals attached to, a photographic detection device. It also makes it an offence for such a person to interfere with the working of a photographic detection device with intent to prevent it functioning correctly. The maximum penalty for these offences is a $4 000 fine or imprisonment for one year.

Clause 13 amends section 176 of the principal Act, specifying that the fees that may be prescribed by regulation under the principal Act include fees for the inspection of vehicles by a State department, whether that inspection is for the purposes of the principal Act or any other Act.

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

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

In Committee.

Clause 1 passed.

Clause 2—'Commencement.'

The Hon. K.T. GRIFFIN: This clause is related to clause 11. There is a rather curious provision in this Bill in that Part 2 deals with amendment of the Landlord and Tenant Act. Clause 10 sets out a regime for the regulation of trading hours, as does clause 11. Clause 2 provides that the Act will come into operation on a date to be fixed by proclamation but there is a reservation that section 11 will come into operation at the expiration of three years after section 10 comes into operation. If one looks at the drafting of clause 11, one sees that it provides that section 65, which, effectively, will be the new section 65 under clause 10, will be repealed and then another section 65 inserted.

That is a very curious way of doing this because in his second reading speech the Minister indicated that the operation of section 65 in clause 10 would be reviewed before the end of the three-year period but that it was intended that that would be a transitional provision to allow tenants, in particular, to make alternative arrangements about extended trading hours and to come to terms with it.

The Opposition holds the view that, because it is so far off in time, it would be preferable to retain section 65 in clause 10 and in three years time, two years time or some other period of time, when a review of the operation of that is intended to be undertaken, if there is to be any change to it (if it is to be terminated; if it is to be amended; or even if the provisions in what is presently clause 11 are to come into operation), it is better to do it by substantive Act rather than this curious trigger provision in clauses 2 and 11.

We must remember that in clause 10 there is a provision for enclosed shopping centres in the context of extended shopping hours. In clause 11 the community can go back to a situation where tenants may be required by the terms of their leases to open for extended hours as required or allowed by law where the shopping complex comprises six or more separate businesses. However, up to that threshold there can be no compulsion to open at particular times.

What I am proposing is an amendment to clause 2 to remove this complicated trigger system so that we are left with a situation where the whole Act will come into operation on a date to be fixed by proclamation and clause 10 remains in operation without a time limit on it. Ultimately, clause 11 will be deleted if my amendment is successful and, if there is a review which results in a desire to amend clause 10 of the Bill, at some time in the next three years, when we see how extended shopping hours are settling down, the substantive provision can be brought back to the Parliament.

It seems to me that that is the essence of the issue and that there is nothing automatic in that as there is in the Government's provision. Clause 10 ceases to operate in three years time and that is the end of it, even though in the second reading speech the Government has that trigger

for three years in order to ensure that there is a review of the operation of clause 10.

With that explanation, both amendments are dependent upon each other, and I indicate that, if they are successful, at a later stage in the Committee proceedings I will oppose clause 11. I move:

Page 1—
Line 14—Leave out 'Subject to subsection (2), this' and insert 'This'.
Lines 16 and 17—Leave out subclause (2).

The Hon. C.J. SUMNER: The Government opposes these amendments. The proposal is that the arrangements which this Bill seeks to provide for the regulation of opening hours in an enclosed shopping complex, whereby the tenants have a say in whether the centre will open for the extended shopping hour period, should apply for three years but, at that point in time, the situation should revert to the current situation. In other words, there should be a sunset clause on the provisions, which are new provisions and which provide for the circumstances in which tenants in the enclosed shopping complexes can open their shops.

That will operate for three years. It will be sunsetted at the end of three years, and at the end of three years the law that is in place at present will be revived unless, of course, in the meantime it is decided to change the situation. Any new tenants coming into shopping centres will understand that, at the end of a three-year period, there will be the potential for them to be required to open in premises which accommodate six or more separate businesses.

The Hon. I. GILFILLAN: It seems to us that clause 10 actually provides some opportunity for the tenants to have a say in decisions affecting their shop trading hours, and it is quite a reasonably spelled out procedure. I feel uneasy about the way this is being presented, and I am not convinced that the Government's argument has fully justified this rather extraordinary procedure.

Does the Attorney see this as a safeguard for tenants who may find that clause 10 proves to be unworkable or too onerous; is it a measure to give the Government a chance automatically to reconsider the matter; or does it reflect the Government's preference for clause 11 and that clause 10, as some sort of interim measure, is a sop to tenants who are feeling threatened? I do not understand the Government's motive for this procedure.

The Hon. C.J. SUMNER: It is a procedure which has not operated previously. It is intended to see how it does operate for three years, and it will have a life of three years. After that, the current law will be reinstated.

The Hon. K.T. GRIFFIN: I draw the Committee's attention to the second reading explanation in relation to this mechanism and also to clause 10, to which the Hon. Mr Gilfillan referred. The second reading explanation states:

> The Government recognises that some existing tenants may be concerned that the rules under which they trade are being changed during the course of their tenancy. Although they will be given a chance to convince their fellow traders of the benefits of existing trading hours, they may be outvoted and forced to open during extended hours. New tenants will be well aware of this possibility and can have no illusions about the possibility of being forced to trade longer hours.
>
> It is therefore proposed that the protection afforded by this amendment [to clause 10] be subject to a sunset clause and that the need for this form of regulation be reviewed before it is renewed. This will give a potential minority of disgruntled retailers time to make alternative arrangements including, if necessary, selling their businesses to new tenants who will be fully aware of and committed to the possibility of extended trading hours.

That suggests that the Government is proposing just a short-term measure; that the provisions in clause 11 are the preferred provisions in the longer term; and that the sorts of protections built into clause 10 are not to be maintained beyond three years. Although there is a suggestion that the need for this form of regulation will be reviewed before being renewed—and there is a hint that it may be renewed—it seems that it will be preferable to deal with it in the way I indicate; that is, you leave clause 10 with the new section 65 as it is, you do not repeal it automatically in three years time but you review it in the period leading up to that, and then bring a substantive amendment back to the Parliament if there is to be a change either to the form of section 65 in clause 11 or some modification of the clause 10 provision.

The Hon. I. GILFILLAN: I have been taking advice, but I am not sure that I am any the wiser. It seems to me that there is probably very good reason why this procedure should be reviewed in a period of time, and three years may well be a reasonable period after which to review it. That automatic review, however, will not be guaranteed by the way this Bill is drafted, unless I can be assured otherwise.

I understand that the Attorney is saying that after three years this procedure in clause 10 will automatically stop and we will go back to the situation which pertains now. There is no referral back to Parliament and no automatic right of another debate and assessment of the situation in this place. If we accept the Bill as currently drafted, that is an automatic procedure. It seems odd to me: if clause 10 is such a valuable procedure to put forward, why have it automatically terminated after three years without even a debate in this place? Why not put a sunset clause in it, in which case we would have to have another Bill to reconsider the matter? Does the Attorney reckon that that is a great idea?

The Hon. C.J. SUMNER: Whether or not it is a good idea, it is what the Minister wants, and that is about as far as I can take it.

The Hon. I. GILFILLAN: With that helpful response ringing in my ears, the Government is determined that this is the way it wants the Bill drafted, for the reasons that it sees are overriding. I admit that I have sought advice from small business, and those people have not expressed any alarm at this, so I must assume that they do not see any serious problem with it.

The Hon. K.T. Griffin: They probably have not realised the significance of it.

The Hon. I. GILFILLAN: They have had the same chance to look at this Bill as anyone else has. I put it on record that I am far from convinced that it is a proper procedure—and I rather doubt whether the Attorney thinks that it is. As I expect that many of us will still be here in three years time, perhaps we can move amendments then. Somewhat reluctantly, I oppose the amendment.

The Hon. K.T. GRIFFIN: It is an important amendment and, whilst I normally seek to assist the smooth flowing of the business of the Committee, if I lose this on the voices it is an issue upon which I wish to divide.

The Committee divided on the amendments:

Ayes (8)—The Hons J.C. Burdett, Peter Dunn, K.T. Griffin (teller), J.C. Irwin, Diana Laidlaw, Bernice Pfitzner, R.J. Ritson and J.F. Stefani.

Noes (9)—The Hons T. Crothers, M.S. Feleppa, I. Gilfillan, Anne Levy, Carolyn Pickles, R.R. Roberts, C.J. Sumner, G. Weatherill, and Barbara Wiese.

Pairs—Ayes—The Hons L.H. Davis and R.I. Lucas. Noes—The Hons M.J. Elliott and T.G. Roberts.

Majority of 1 for the Noes.

Amendments thus negatived; clause passed.

Clause 3 passed.

Clause 4—'Interpretation.'

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

Page 1, after line 28—Insert paragraph as follows:

(ab) by striking out subparagraph (ii) of paragraph *(d)* of the definition of 'exempt shop' in subsection (1) and substituting the following subparagraph:

(ii) which has a floor area that does not exceed 400 square metres:.

This is to amend the definition of 'exempt shop'. The definition of 'exempt shop' in the principal Act is quite extensive, but the amendment is to paragraph *(d)*, which relates to a shop, the business of which is the sale of foodstuffs. It deals with the sort of super delicatessens, the Triple Seven-type stores, convenience stores, which have an area that exceeds 200 square metres but does not exceed 400 square metres. Of course, if the shop does not exceed 200 square metres it can open any time; there are no constraints. If it exceeds 200 square metres and does not exceed 400 square metres, it is not permitted to have more than three persons physically present at any one time for the purpose of carrying on or assisting in carrying on the business of the shop.

Over the years, as those stores became more popular, so the limitation on the number of persons physically present has created a problem, particularly on week days. No-one really argues with that on, say, Sundays, but on week days, while every other shop is able to have an unlimited number of employees, these convenience-type stores are permitted to have only three employees on the premises at any one time. That has been a source of complaint to the Opposition, and for that reason we believe that the anomaly ought to be removed whilst this Bill is before us, so they are not disadvantaged during the course of the week by being required to have only three employees on the premises at any one time, while every other shop, big, small and medium, can have any number of employees in it.

In the other place, the Minister threw up some off the cuff proposition: well, why not say 800 square metres and let them all go hell for leather? That would really defeat the purpose of what the Opposition is endeavouring to do. We would certainly reject it, as small business people have rejected it in the discussions we have been able to have with them since that proposition was raised in the House of Assembly.

So, this amendment is to, in effect, remove what we regard as an impediment to small businesses and to put them more on an equal footing with other businesses competing during a working week.

The Hon. C.J. SUMNER: The way to solve the honourable member's problem is to have 24-hour trading, seven days a week. If the honourable member wants to suggest that, perhaps the Government could consider it. However, while this particular category of store would benefit in that they are permitted to trade on Sundays when the general run of retailers are not permitted to trade, the Government believes that it is reasonable to apply the restriction which currently exists. To remove the restriction on three staff would enable these stores to trade in an unlimited manner during the week and still get their advantage of trading on Sunday. That gives them a competitive advantage which is not justified.

If the honourable member has a problem with some stores being able to trade on Sunday and others not, then he can resolve it very easily by suggesting that there be 24-hour trading around the clock, and then the stores in this category would have to compete with the others that were open on Sundays, assuming they decided to open on Sundays.

The Hon. K.T. GRIFFIN: We are not proposing 24-hour around the clock, around the week shop trading. This provision deals with shops, the business of which is the sale of foodstuffs. I am sure the Attorney-General, in his private capacity, would know that those sorts of shops are very widely spread throughout the metropolitan area and probably frequented by him when there is a need to buy some foodstuff which has been forgotten during the week.

They are certainly very popular, particularly on Sundays, but also on other days of the week. The difficulty, of course, is that, because the Act permits them to cover an area up to 400 square metres, during the remainder of the week while everyone else is entitled to be open and is entitled to have unlimited shop assistants serving the customers, these shops are restricted and it does create a problem for them.

The Hon. Diana Laidlaw: It's limiting employment.

The Hon. K.T. GRIFFIN: Yes. The advantage they get on Sundays is that they are less than 400 square metres and they are kept to three people. The fact is that they are trading on Sundays and have been for years, but they do suffer a disadvantage *vis-a-vis* other shops during the week. I suppose it is really a matter of balancing up which is the greater disadvantage, and I would suggest in terms of trading hours it is the fact that they are permitted only to have three persons physically present during the six days of the week, when other shops are permitted to have an unlimited number. I suggest that it is an important amendment for those shops, but it does not give them a significant competitive edge by making only that change.

The Hon. I. GILFILLAN: I oppose the amendment.

Amendment negatived.

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

Page 1, after line 28—Insert paragraph as follows:

(ab) by inserting after the definition of 'motor vehicle' in subsection (1) the following definition:

'motor spirit' means—

(a) a distillate of crude oil commonly used as fuel for motor vehicles;

(b) liquid petroleum gas or compressed natural gas that is sold, or is intended to be sold, as fuel for motor vehicles;.

This amendment corrects an omission in the Act. With the increasing proliferation of LPG-powered vehicles and the probability that CNG-powered vehicles will become a reality, this definition is required, among other things, to permit service stations to sell this fuel in terms of their licence pursuant to section 17.

The Hon. K.T. GRIFFIN: This amendment only came on the table a few minutes ago. However, on the face of it, it looks to be a reasonable proposition. It defines 'motor spirit' as a distillate of crude oil commonly used as fuel for motor vehicles. It then also identifies liquid petroleum gas or compressed natural gas. I can accept that they are to be commonly available at service stations and I certainly see no difficulty with the amendment.

Amendment carried.

The Hon. I. GILFILLAN: I move:

Page 1, after line 32—Insert paragraphs as follows:

(ba) by striking out the definition of 'Proclaimed Shopping District';

(bb) by striking out paragraph *(c)* of the definition of 'shopping district';.

All of the amendments that I have on file relate to one matter, to which I alluded in my second reading contribution, that is, providing to non-metropolitan councils the power to determine shop trading hours in their area. I will regard the vote on this first amendment as being indicative of the response to my amendments. If I am unsuccessful with this amendment, I will not pursue the others.

The argument is quite simply detached from the pros and cons of extended shop trading hours. It hinges on the right of a community to determine itself, through its elected body, the shop trading hours most appropriate for that commu-

nity. It is difficult to argue against that position, particularly in light of the increasing responsibility to be taken by local government. That having been recognised by both the Government and the Opposition in this place, it seems to me to be appropriate that a further step in that process of recognition should take place.

Non-metropolitan councils deal with disparate communities in different circumstances, from virtually rural property-based communities with just a centralised shopping centre, to quite substantial non-metropolitan cities, like Mount Gambier and Port Pirie, and they should have this power. I move this amendment on the basis that, regardless of the shopping hours that are favoured by members and the argument as to what should apply within the metropolitan area, this amendment will allow rural communities to have the right to determine their own shop trading hours.

The Hon. C.J. SUMNER: The Government opposes this amendment and the related amendments. It would permit a council to make by-laws varying closing times in different parts of its district by different types of shops or by the type of goods sold by shops; it may also exempt shops conditionally or unconditionally from the requirement to close; discriminate between individual traders operating shops of the same type; and it provides for the appointment of supervisors and for the imposition of a penalty of up to $10 000 for non-compliance.

This would be a recipe for some confusion, to say the least. It could create a patchwork pattern across the State or, indeed, within a single district council area, which will do nothing but create confusion for the travelling public and, indeed, probably for the residents of that area, in any event. It is also a method by which a council which had trader members could oppose the wishes of the majority of ratepayers within that area and, for example, deny those ratepayers the benefits of extended trading at any time.

The Hon. K.T. GRIFFIN: The Opposition has had a chance to consider the concept proposed by the Hon. Mr Gilfillan, and we have some concerns about it, partly because it would introduce the ability—which currently does not exist—to control shopping hours in some areas of South Australia. It could also, as the Attorney indicated, create disparity within district council areas. At the present time some shopping districts are covered by more than one municipal or district council. In fact, this could apply even within one township: the municipal council might do one thing and on the extremities of the area the district council might do another. I think that would create some problems.

There is already a mechanism in the Act for shopping districts to seek a proclamation in relation to changing shopping hours. I have an amendment which seeks to provide a little more flexibility in relation to hours and not just standard hours. I must say that on the occasion that we considered this, we believed it was still preferable to have a situation where the local council makes representations to the Minister and, ultimately, a proclamation may or may not be made. So, on balance, we have reached the conclusion that we will not support the amendment moved by the Hon. Mr Gilfillan.

The Hon. I. GILFILLAN: The observation that large areas of South Australia are exempt really is a supportive argument for my amendment. If the arguments that this move would cause chaos, disparity and inconvenience were true, they would be raging now in the uncontrolled areas of South Australia. In fact, they are not, because to a large extent the shop trading hours evolved from what was required and found to be profitable and convenient for the communities in which they operated. I have lived for a large part of my life on Kangaroo Island, which was free of proclaimed controls and there were variations between townships. Residents and visitors moved from town to town and there was no evidence of dissatisfaction or chaos to support these arguments being put up now as the reason why the Parliament should refuse local councils the right to determine their own shop trading hours.

I believe that the Opposition would be very close to supporting my amendment with a little further thought, because the amendment that it has on file really is identical except for one point; that is, that the application needs to be approved by the Minister. So, although the deliberation, the decision and the request can be made locally, its real confirmation can be made only by the Minister of the Crown in Adelaide. It seems that that is restricting unnecessarily the right of a local council to make that determination, although the Liberal Party's amendment recognises that it is a good thing for local councils to make that decision.

Having recognised that the principle is sound, the Liberal amendment actually then fences it within only one gate, and that is to go through the consent of the Minister of the day. I think that is an unfortunate restriction, and, as I have heard the Hon. Trevor Griffin indicate previously, it may not be too late for a change of heart on the part of those people who up until now have tended to sound as though they will oppose this amendment. I emphasise to Liberal members, who seem much closer to supporting it than the Government, that my amendment is a much more rational and contemporary one. It is one for the 90s—with an enlightened Government—rather than the one it has on file. I urge the Opposition to re-think this matter.

The Hon. DIANA LAIDLAW: I am prompted to speak to this amendment rather than to the Hon. Mr Griffin's amendment. I feel strongly that there is a need for input from local communities on this decision but that they do not have the final decision in relation to this matter. Local opinion, as the honourable member would know, can be hotly contested within a local area, with the council, for one reason or another, making a decision possibly not to have extended trading hours; yet that might not necessarily be the wisest decision, or it may not necessarily reflect the majority view of the council, for a variety of reasons.

I think at least if that decision is sent to the Minister, for the Minister to call for a variety of views on this matter, that would be more rational—if one is going to use that word in terms of describing amendments. However, if one is going to look at a Statewide extension of shopping hours, there must be input from local communities, including the local council and then the Minister is entrusted to make the judgment, taking into account local opinion.

The Hon. PETER DUNN: I am not exactly sure what this legislation does. Does it lock up those areas that now are not proclaimed? Does it mean that they will then have to go back to councils, whereas now they are free to make up their own decision as when to open?

The Hon. I. GILFILLAN: I must reply to the arguments—which I find very unacceptable—from the Hons Diana Laidlaw and Peter Dunn. It was a reasonable debating point to take, but the Hon. Diana Laidlaw's argument sits uncomfortably with previous calls for more autonomy and the right of local government to be free from dictatorial supervision by State Ministers. For some reason—and I cannot see any justification for it—on this matter the Hon. Diana Laidlaw is arguing that paternalistically or maternalistically local governments are not able to make the decision on their own part; they have to go to the parent body and seek approval. In so many other debates in this Chamber, where local government has been to the fore, the same

argument has been made in reverse; the Opposition has been arguing that the Minister has been oppressive in denying the right of freedom of choice of local governments.

The Hon. C.J. Sumner: It is the State Government's responsibility.

The Hon. I. GILFILLAN: The Attorney is interjecting that it is a State Government responsibility. The State Government is, as fast as it possibly can, galloping away from its responsibility to local government, and shelving the department. So, that argument does not stand up in the light of current events. The answer to the Hon. Peter Dunn's question, 'Does it bring into control what are currently free areas?' is that it brings into the local government decision process the issue as to whether shops should remain open or not, whereas in unproclaimed areas at this stage the residents of the area, through their elected representatives, have no say. I believe that in most local government areas the council reflects reasonably accurately what the majority of the residents want in many areas, and shop trading hours should be no exception. I want to indicate quite clearly that I find the Opposition's arguments against the amendment to be totally without foundation, and I urge support for my amendment.

Amendment negatived.

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

Page 2, lines 4 to 8—Leave out paragraphs *(a)* and *(b)* and insert 'the area occupied by pumps from which motor spirit is dispensed or areas set aside for the purpose of giving motor vehicles access to those pumps'.

My amendment is to the new subsection which was inserted in the House of Assembly on the motion of the Minister of Labour to define the floor area of a shop from which motor spirit is sold, and to exclude from that certain areas. I am not comfortable with the provision in the Bill because it is not clear enough for those who have to deal with the identification of area on a day-to-day basis. The Bill provides:

> ... the floor area of a shop from which motor spirit is sold does not include:
>
> *(a)* areas in which the only goods displayed for inspection by the public are motor spirit or lubricants;
>
> *(b)* areas to which the public has access for the purpose of inspecting or purchasing motor spirit or lubricants but not any other class or classes of goods.

In some of the service stations, where the cash register is inside, there are areas adjoining the food-type displays where lubricants are displayed and this could cause confusion. I think this tends to give those shops an advantage over other shops which do not have the benefit of being able to sell motor spirits or lubricants, because it effectively means an addition to the 200 or 400 square metre area. What I am providing in my amendment is that the floor area in the shop in which motor spirit is sold does not include the area occupied by pumps from which motor spirit is dispensed, and/or areas set aside for the purposes of giving motor vehicles access to those pumps.

It should be remembered that we have a definition now of the motor spirit which deals not only with petrol but with LPG and compressed natural gas. My amendment seeks to exclude, in effect, the driveway of service stations from the calculation—and everything inside, whether it is selling lubricants, whether one is paying for one's motor spirit or whether one is looking at other goods which are on display. They are all part of the calculation of 200 square metres, or whatever is the area as the case may be. My amendment tends to narrow the gap between those shops which do not have the benefit of petrol pumps and the sale of motor lubricants and the service stations which undoubtedly will develop the food-plus concept into a very effective one-stop-shop facility, competing with the convenience-type food stores to which I referred earlier. My amendment puts them more on a par, and I urge the Committee to support it.

The Hon. C.J. SUMNER: The Government opposes this amendment. In our view, the proposed amendment does not adequately describe the area to be excluded from the calculation. Service stations are different from other types of retail premises in that large areas are of necessity set aside for vehicular access and/or parking. The Government's amendment intends that the floor area for the non-exempt provisions of the Act shall be that area within the four walls of the service station building where goods other than automotive fuel and lubricants are displayed for retail sale. In the Government's view, this is a reasonably precise definition. The Hon. Mr Griffin's amendment does not adequately describe what we are intending to exclude or not exclude.

The Hon. K.T. GRIFFIN: With respect to the Attorney-General, I think that my amendment clearly identifies the area. He has indicated that an advantage is given to petrol sellers in relation to the area which may be calculated for the purposes of the principal Act. He has said that the Government's intention is to take into calculation that area which is enclosed—the inside area—where motor lubricants and other products may be sold. That may give an additional advantage to a petrol station proprietor because, if there is an annex to the side of the main shopping area in a petrol station within the four walls, according to my interpretation of the Bill, that is to be excluded from the calculation. Therefore, an additional space will be available to service station proprietors which is not available to the convenience-type stores. My amendment, in effect, says: remove the driveway and everything inside has to come within the 200 square metre area.

The Hon. C.J. SUMNER: I am not sure that the honourable member's description of what the Government is doing is correct. We are excluding the areas that are not within the four walls of the service station building where goods, other than automotive fuel and lubricants, are displayed for retail sale. I should have thought that that is what the honourable member wanted to do as well. However, we believe that ours does it in a more adequate manner.

The Hon. I. GILFILLAN: I oppose the amendment.

Amendment negatived; clause as amended passed.

Clause 5 passed.

Clause 6—'Closing times for shops.'

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

Page 3, lines 1 to 8—Leave out paragraph *(d)*.

I addressed this matter in my second reading speech. Clause 6 is internally inconsistent and contradictory in its terms. Put simply, because I have said this before, new subsection (3a) provides that closing hours in respect of premises which are predominantly for the sale of motor vehicles is 1 p.m. on a Saturday, whereas paragraph *(c)* says that it is 5 p.m. So, the two are completely inconsistent.

To get an explanation, we have to look at the explanation of the clauses, which says that it is intended to suspend the operation of paragraph *(c)* until the objections of the traders have been overcome; those objections relate to the fact that they do not yet have any registration or security facilities available to them on a Saturday afternoon. It is explained that it is intended that, when they have facilities available to them, then *(d)* will be proclaimed, providing the new (3) which will supersede (3a) as in *(c)*.

I am amazed to find the Government doing this at this time when there has been so much talk about plain language in legislation. The ordinary layman in the street, including

the car salesman, ought to be able to read a Bill and know what it means. He could not read this Bill and know what it means without looking at the explanation of the clauses. It is not even addressed in the second reading explanation; it is in the explanation of the clauses. I suspect that most used car salesmen do not have the Bill in their back pocket, let alone the explanation of the clauses. These are practical people, and I find it quite disgraceful that we have legislation which cannot be understood according to its tenor and in its terms.

I am aware that suspension of clauses in Bills is quite common. There is nothing strange about it; it happens quite often. There are a number of situations where it is acceptable, but in this case it is not acceptable because we end up with a Bill which does not make sense according to the terms of the Bill. The right procedure is that, when the objections of the industry have been overcome, we amend the Bill and bring the amending Bill into Parliament.

This addresses another subject that concerns me very much: that the Executive is trying to take matters out of the hands of Parliament and make its own judgment. That is what applies in this regard. It will be the Executive, not the Parliament, which will decide when the objections of the traders have been overcome, whereas it ought to be for the Parliament to decide. It is a fairly clear-cut issue. If the objections of the traders are overcome, I do not suspect that there will be any difficulty in a short amending Bill going through Parliament. I believe that the right way is to leave *(c)* in and delete *(d)* and, when the problems in regard to car sales are overcome in regard to 5 o'clock trading, introduce an amending Bill. It is for this reason that I have moved the amendment.

The Hon. C.J. SUMNER: The Government believes that this matter should be fixed up now. We are introducing extended trading hours to 5 p.m. on Saturday for all shops, and the Government believes that it should also apply to motor vehicle dealers. But the intention is this will not come into effect immediately; that is not uncommon. It will come into effect subsequently, but the principle is what we are establishing in this legislation.

The Hon. J.C. BURDETT: The Bill does not fix it up now. The Bill says that now there will be trading in regard to motor vehicles until 1 o'clock on Saturday, not 5 o'clock. The Bill does not fix it up now. What I have been saying is that when circumstances change, you then bring in amending legislation. That is the way that, traditionally, matters are kept in control by Parliament.

The Hon. I. GILFILLAN: I support the amendment. I think it is a similar pattern to the earlier one on the issue of tenants having a say in shopping complexes but it is even less justified in the legislation because there is no sequitur; there is no following procedure that is built into the legislation. I accept that the Attorney-General is correct: the Government has signalled its intention. However, it needs to have in a Bill, at least, a pattern which is able to be followed—

The Hon. C.J. Sumner: We do this all the time, proclaiming the different sections. It happens every day of the week.

The Hon. I. GILFILLAN: But the Hon. John Burdett has indicated, I think very accurately, that on a reading of the Bill, and relating that to the original Act, there is no logic—that there is nothing in the Bill (unless I have avoided it or missed it) which indicates that there will be a procedure which moves from (3a) to *(d)*. If the Attorney-General can point out that there is in the Bill a procedure which will indicate to a reader how the—

The Hon. C.J. Sumner: It happens every day of the week.

The Hon. I. GILFILLAN: Where is the instructions on the proclamation of this? Will the proclamation of this Bill include the whole of clause 6 which will include two completely contradictory times of closing for premises which are solely or predominantly for the sale of motor vehicles?

The Hon. C.J. SUMNER: The situation is what happens with a number of pieces of legislation. In fact, it is in the Acts Interpretation Act now, in that you can proclaim an Act to come into effect sequentially. I interjected and said that it happens every day of the week. Perhaps that is a slight exaggeration, but it is not a very great exaggeration, because it is very common for Acts of Parliament, when they are brought into effect, to be brought into effect sequentially. It is very often a fact that an Act of Parliament is brought into effect substantially and certain sections are left unproclaimed and proclaimed later. That is all that is happening here, in effect: we are accepting the principle of 5 o'clock for motor traders on Saturday, and there are some outstanding issues that still have to be resolved such as how Motor Registration will deal with the situation of cars being sold on Saturday afternoons when they are not open.

However, I do not see that that should be a great problem, because they are sold on Saturday mornings now, anyway. There are still some issues to be sorted out with industry. Surely at this time, when making a decision about extended trading hours, if the principle that there should be 5 o'clock trading on Saturday for motor vehicle dealers is agreed to by the Parliament, we make that decision now and proclaim it to come into operation at a subsequent date when the practical problems have been sorted out. That is not an uncommon practice.

The Hon. J.C. BURDETT: The Attorney has only repeated what I said. I said—before the Attorney did—that it is common practice, although not terribly common. It does happen that some parts of the operation of a Bill are suspended. If it is common practice, it ought to be stopped. It is not a common practice to have a Bill that does not make sense according to its terms, and not even in the second reading explanation, unless you turn to the explanation of clauses. The Bill as it stands is a nonsense.

At a time when there is a fair bit of agitation about plain language and that we ought to depart from traditional language so that people can read Bills and know what they mean, one could not read this Bill and know what it meant. That does not commonly occur. There are cases in which it is quite appropriate to suspend the operation of certain parts of a Bill, but to have two parts of a Bill that are in total contradiction to each other is unnecessary. The ordinary procedure of Parliament is there: you bring in an amending Bill.

You can bring in an amending Bill when it happens, but the Attorney has not decided that now. What he has decided now is that we will have trading until 1 o'clock on Saturdays for motor vehicles. There is a change in regard to caravans and so on. It is not exactly the same, otherwise there would not have been any need to say this. There is a technical change, but the point is that the clause does not make sense. I believe that Parliament ought to be in control of legislation and, when circumstances change—

The Hon. C.J. Sumner: No circumstances have to change. We decide now whether we want 5 o'clock opening for motor vehicles. What's wrong with doing that?

The Hon. J.C. BURDETT: At the moment we have an objection from the Motor Traders Association, which is not satisfied at this stage with opening until 5 o'clock. When it is satisfied, the measure can come back to Parliament and Parliament can decide it then.

The Hon. I. GILFILLAN: If the Government wanted to pursue the course currently being indicated by the Attorney-General, it seems to me that it would have been better to have left out new subsection (3a) and included what is now the text of (3a) *(d)*, and had in the commencement clause an indication that that would come into effect at a separate date of proclamation from the balance of the Bill. I am totally convinced by the Hon. John Burdett's analysis of the Bill. If pedantry means being accurate in what is included in a Bill to be read by any reasonable reader, then count me in as a pedant. I will support the amendment. If it means that the Government has to reword the Bill to make its intention more clear, so be it.

The Hon. C.J. SUMNER: It is pedantry. The Hon. Mr Burdett is apparently saying that, until the motor traders decide they want to open until 5 o'clock, we should not be passing legislation to require them to open.

The Hon. J.C. Burdett: That's not what I'm saying.

The Hon. C.J. SUMNER: That is the effect of what you are saying. We know that there are many people who do not want to stay open until 5 o'clock. Certain motor traders do not want to open. I am staggered at the Liberal Party supporting the Hon. Mr Burdett on this.

Members interjecting:

The Hon. C.J. SUMNER: We will put it to the test. What we will get is motor vehicle traders trading until 5 o'clock with a run-in period to enable some further consultation. There is absolutely nothing wrong with the Parliament expressing the view right now that we want motor vehicle sales to be available to the public until 5 o'clock on Saturday, just as the shopping hours for other retail sectors are being liberalised.

It seems to be the height of bloodymindedness—and this really seems to me to be addressed to the Liberal Party—to say you will open up retail trading to 5 o'clock for every category of retail trader except motor vehicle traders. So, members opposite support the Hon. Mr Burdett's amendment: at the time at which they decide they want to open, the motor traders come back to Parliament and we deal with it. Surely we want to deal with the matter now. We want to deal with motor vehicle sales now.

The Hon. I. Gilfillan: Why aren't you?

The Hon. C.J. SUMNER: We are.

The Hon. I. Gilfillan: You have two closing times—that's how you're dealing with it.

The Hon. C.J. SUMNER: We are allowing the current law to remain for a period of time to enable the consultation process to continue, but are saying that at the end of that consultation process there will be 5 o'clock trading for motor vehicle dealers come what may. I understood that that was what the Liberal Party wanted, but we now find that, apparently, members opposite will support the Hon. Mr Burdett's amendment. It is ridiculous.

The Hon. J.C. BURDETT: The Liberal Party has not indicated at all what it intends to do about the amendment. In the Bill we have an entirely contradictory clause. It says two separate and different things. Obviously, the Government has accepted that the motor traders have some sort of point, otherwise the Government would have been bloody-minded, as I was accused of being, and would have just brought in the 5 o'clock to start with. The Government did not do that: it brought in a contradictory clause in the Bill, and when the situation changes, what happens should be at the instance of the Parliament.

The Hon. C.J. SUMNER: I will move an amendment, then, which will be to delete the sections relating to motor traders trading until 1 o'clock and will leave the 5 p.m. situation to apply. That will resolve the problem.

The Hon. J.C. Burdett: Not in your favour.

The Hon. C.J. SUMNER: If the honourable member wants a vote on whether motor traders should open until 5 o'clock, let us put it to the test.

The Hon. I. Gilfillan: We have an amendment before us.

The Hon. C.J. SUMNER: Then I will move another amendment.

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: If that keeps the Hon. Mr Burdett happy, I will do it.

The Hon. K.T. GRIFFIN: On the face of it, if someone in the community picks up the Bill, he is faced with two conflicting provisions and will have to rush to the *Government Gazette* to try to find out which one has been proclaimed and which has been suspended from operation. If the Attorney-General is suggesting—and the second reading explanation suggests—that 5 p.m. closing will come into operation when access to the good security register is open and when access to motor vehicle registration is open to dealers, surely to make it easier for ordinary people to understand what is happening we need to delete paragraph *(d)*.

In new subsection (3a) there is a form of words which states 1 p.m. now and 5 p.m. when proclaimed by the Governor. That is something I cannot do off the top of my head. It is along the lines that when the proclamation is made it is 5 p.m.

The Hon. C.J. SUMNER: If the honourable member had said that in the first place there would not have been any problem. If he had said he had no objection to the Bill containing 5 o'clock closing for motor vehicle traders, there need not have been an argument about it, but he did not say that. He said that when we have sorted out our problems then we should come back. If he had started by saying, 'I fully support motor traders opening till 5 o'clock', or at least it being made clear at this point of time that that is what they are going to do—in other words, we fix up the principle now—there would not have been a problem, but he prattled on about us bringing back another Bill. If it is a drafting point he is making, fine, we will look at the drafting point.

The Hon. J.C. BURDETT: It is ridiculous for the Attorney to try to blame this on me. What I did right at the outset was to say that the Bill is a nonsense. That was the fault of the Government. It was not my fault and it was not my job to fix it up. I intended to fix it up by the obvious way of deleting *(d)*. If there is some other way, that is all right. The point I made at the outset is that the Bill is a nonsense. If the Attorney can overcome his initial fault in introducing a Bill which is a nonsense, that is fine with me.

The Hon. I. GILFILLAN: I feel it is important to get on record that I think the Attorney is now shifting ground in a way which does him no credit. Having blamed the Hon. John Burdett, quite unfairly and somewhat viciously, he now realises the point that the honourable member made in the first instance. It does him no credit to now try to shuffle under the fact that the Government and he did not see it.

The Hon. C.J. Sumner: It doesn't matter. I am quite happy for the Bill to go forward. If it will keep you people happy, we will change it, provided we get 5 o'clock closing for motor vehicles.

The Hon. I. GILFILLAN: The purpose of dealing with legislation in this place is not simply to keep us people happy, as he so cutely puts it; it is to put into the statute book words that can be relied on by law and courts to implement the wishes of this Parliament. I believe that the words this Government brought in were fatuous in their

transparency as being totally inconsistent. The Attorney has now recognised that.

The Hon. C.J. Sumner: I have not recognised that. That's not right. Don't misrepresent the position.

The Hon. I. GILFILLAN: He says he has not recognised it, yet he is falling over backwards to get an amendment which will do exactly what the Hon. John Burdett wanted to do in the first instance. He has spent half his time in his speech, and half his time interjecting, trying to justify his position by saying that had Mr Burdett said that he supported the Bill in the beginning, then all would have been peace and light. How ridiculous! The fact that Mr Burdett brought up a technical drafting point has nothing to do with whether Mr Burdett supports the Bill or not. It indicates the deficiency in the Attorney's ability to continue a logical debate when he resorts to this nonsense. The inconsistency with the removal of clause 11 and the automatic clicking in of 10 is done in the commencement. It is there. There are two conflicting provisions in this Bill, but the Government was wise enough to put in the commencement that section 7 will come into operation at the expiration of three years after section 10 comes into operation.

There are two conflicting ingredients in the Bill. I am not talking about whether I support it or not. I oppose it, actually. Where the Attorney is proving his inconsistency is that, having recognised that and seen it in the Bill, here we have had clearly pointed out by the Hon. John Burdett exactly the same contrast side by side in the Bill with no explanation, no automatic flow-through. So, really, where is the consistency with the Government? Thank goodness we are now getting some amendment drafted and we can get on with it.

The Hon. C.J. SUMNER: There is no inconsistency with the Government. The Government believes the Bill is quite satisfactory. It explains the position adequately. It achieves what the Government, and I assume the Liberal Party, wanted, which is 5 o'clock trading for motor vehicle traders; suspended, however, until such time as it was proclaimed to come in. That seems to me to be a very simple proposition. The Hon. Mr Burdett should have made his point right from the start, that it was a technical point and not the issue of principle that he was interested in, but of course he did not. He is opposed to motor vehicle traders having to open on Saturday afternoon.

The Hon. J.C. Burdett: I am not. I have never said that.

The Hon. C.J. SUMNER: You are. You have voted against the second reading of the Bill, so you must be. You are opposed to anyone opening after 12 o'clock, because you voted against the second reading of the Bill. If you had made that clear right from the start, that you were prepared to accept motor vehicle dealers opening on Saturday afternoon until 5 o'clock, but that you had a technical, pedantic point about the way the Bill was drafted, that is fine. You can have a technical, pedantic point about the way the Bill is drafted and we will fix it up. But, you did not say that; you said you did not want the 5 o'clock issue on Saturday to be dealt with now. That is what you said. You said you wanted it dealt with subsequently when another Bill had to be introduced. That is what the honourable member said, and the Hon. Mr Gilfillan should have listened to what he said, instead of getting up and carrying on the way that he has done. If it is a drafting point we can obviously look at it. That is what we are prepared to do. In my view the Bill is quite satisfactory. From a drafting point, however, we are happy if it satisfies members opposite.

The Hon. J.C. BURDETT: It is true that I voted against the second reading of the Bill, and I said why in detail. The Attorney was not present when I made my speech and he obviously has not read it. It had nothing whatever to do with motor vehicles; it had to do with retail trading. Regarding this clause, the fault was on the part of the Government in bringing in an inconsistent, ridiculous clause in the Bill, and that is what I raised.

The Hon. C.J. Sumner: You said you wanted us to bring back another Bill.

The Hon. J.C. BURDETT: If you want to fix it up now, go ahead.

The ACTING CHAIRMAN (Hon. R.J. Ritson): My understanding is that there is a potential compromise.

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

Page 2, line 42—After the word 'Saturday' insert 'or such later time (not being later than 5 p.m.) as is fixed by proclamation'.

Page 3, lines 1 to 8—Leave out paragraph *(d)*.

The Hon. J.C. BURDETT: I seek leave to withdraw my amendment—in favour of this one, which does fix up the problem and does make the Bill able to be understood when one reads it.

Leave granted; amendment withdrawn.

The Hon. C.J. Sumner's amendments carried.

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

Page 3, after line 11—Insert new paragraph as follows:

(f) by inserting in subsection (6) after 'the closing times specified in subsection (1)' 'or such other closing times as are specified in the proclamation'.

This amendment relates to subsection (6) of section 13 of the principal Act, which provides:

> . . . the Governor may, by proclamation, order that the closing times specified in subsection (1) apply, as from a time specified in the proclamation, in any shopping district or part of a shopping district specified in the proclamation . . .

Certain other provisions apply. I want to provide flexibility to allow the proclamation to be made whereby those times may not necessarily be the same as those set out in subsection (1). So, I am seeking to add the words 'or such other closing times as are specified in the proclamation'. That will accommodate the situation in shopping districts outside the metropolitan area and allow the sort of flexibility that I think may be necessary in country areas.

The Hon. C.J. SUMNER: The Government opposes this amendment because it will create the potential for confusion between proclaimed shopping districts and non-proclaimed shopping districts. It could also be used as a backdoor means of defeating the proposed extension of trading hours.

The Hon. K.T. GRIFFIN: With respect, it is still under the control of the Government, because it is the Government that authorises the proclamation. I would have thought that that was consistent with what the Attorney-General was saying earlier, when he opposed the Hon. Mr Gilfillan's amendment.

The Hon. I. GILFILLAN: This is a worthwhile amendment. As I said earlier when speaking to my amendment, it had merit but did not afford local councils the full autonomy that I believe they should have. I think it is interesting that the Liberal Party, which opposed my amendment, is now prepared to offer councils this right, but is not prepared to give them the power to implement it. That aside, it is pleasing to hear the voice of sweet reason of the Hon. Trevor Griffin now being directed towards the Attorney-General. The Hon. Trevor Griffin can be a very persuasive debater and I would not be surprised to see the Government wilting under this logic and gentle persuasion—we may carry this amendment unanimously.

Amendment carried; clause as amended passed.

Clauses 7 to 9 passed.

Clause 10—'Hours of business, etc.'

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

Page 3, line 31—Leave out 'an enclosed' and insert 'a'.

This clause establishes the regime relating to shops in an enclosed shopping complex for the period of three years from the commencement of the operation of the Act, provides for the hours between which the tenants of an enclosed shopping complex may be required to open and gives them a flexibility at a meeting of tenants by a vote of two-thirds of the total number of tenancies in an enclosed shopping complex to alter the core trading hours.

If a shop is not in an enclosed shopping complex, under the provisions of subclause (2), a term of a commercial tenancy agreement that purports to impose on the tenant an obligation to keep the premises open for business at particular times or during particular periods is void. The difficulty that we have had drawn to our attention in relation to this is that, although that certainly gives tenants outside an enclosed shopping complex the right to open whenever they wish, not even to be bound by standard trading hours, a difficulty arises in relation to those shopping complexes which are part enclosed and part not enclosed, or even those shopping complexes which are not enclosed within the definition of this clause. The definition provides:

'enclosed shopping complex' means a shopping complex comprising three or more shop premises that share a common area that is locked when they are closed for business so as to prevent public access to any of them:

In the second reading debate and in the Committee stage in the House of Assembly, the Burnside Village was identified as an example of a complex that is partly enclosed but, as part of the same overall complex, some of the shops are not enclosed.

What will result from this clause is a provision which may require the tenants to open for the standard trading hours or, by vote of those tenants in the enclosed shopping complex, some other hours and with the shops not in the enclosed part of the shopping complex not having any obligation on them at all to open at any particular time. From the landlord's point of view, that is undesirable if the whole complex is run as one and designed to attract custom with the widest range of shopping choices available at the one time. More particularly, I think that is going to have an impact on the tenants; not only the tenants in the enclosed shopping complex but also the tenants in the other parts of the complex, because they will be seeking to ensure that as many of them as possible are open to attract the widest range of custom because they are offering a particular service. If half the shops are closed, and half are open, that does not provide the sort of choice which the tenants need to attract the greatest amount of custom.

The amendment which the Opposition is proposing is that we remove the reference to an enclosed shopping complex, and talk about any shopping complex. We realise that that will place some more obligation on tenants who are in shops not part of the enclosed shopping complex, but we believe that it is necessary for the purpose of ensuring that the shopping complex, for the benefit of the tenants and the landlord alike, should be open during a common set of hours, and that they all should be part of the decision-making process in relation to what those common set of hours may be.

It is with that intention that I move my first amendment, which is really one word, to leave out 'an enclosed' and insert 'a', but a number of my other amendments do hinge upon that amendment passing in the broader context which I have just described.

The Hon. C.J. SUMNER: The Government opposes this amendment. The Government believes that it is only in enclosed mall-type shopping centres that the rule which enables tenants to open when they wish to shop should be overturned. There are special reasons for that in relation to the enclosed mall-type shopping centres which do not apply to single shops or, indeed, to strip shops. We do not believe that in strip shops the landlord should be able to force tenants to open.

The Hon. I. GILFILLAN: The Democrats oppose the amendment.

The Hon. DIANA LAIDLAW: I want to ask a general question of the Attorney. I refer to an article in Red Spot edition of the *News* of 2 November. In respect of a decision by the Government to grant Westfield a special exemption to open its three shopping complexes on Sunday 11 November, Mr Gregory was quoted as saying that under the present Act Westfield had the powers to force its tenants to open on the Sunday. Westfield is opening three major complexes this Sunday, and is also paying the STA $30 000 to put on free transport for everybody to these shopping centres. It is creating considerable controversy amongst other retailers in the area—and certainly concern has been expressed by the Retail Traders Association over what the Government intends to do and whether in the future the STA will be prepared to accept substantial sums of money to ferry people free of charge to those shopping centres, with, in exchange, these shopping centres opening their doors.

I am not too sure what cosy arrangement is going on here, but I was particularly interested in the Minister's statement about Westfield having the power to force the tenants to open. In terms of Westfield's powers, Mr Macdonald, South Australian President of Australian Small Business Association, indicated that Westfield had written to all tenants saying, 'Tough times never last: tough people do.' The letter goes on to say that, in keeping with that general feeling, in respect of their competitors Westfield must keep a competitive edge in these tough times and, therefore, all shopkeepers were being required to open on Sunday.

The Hon. C.J. SUMNER: The answer is obvious, and that is why we have introduced this legislation in clause 10 to deal with the circumstances in which a tenant can be forced to open in an enclosed shopping complex. There is a procedure to deal with whether or not a tenant, in an enclosed shopping complex, will be required to open. It will depend on the vote of the tenants. The current situation is that the leases in an enclosed shopping complex (a closed complex or strip shops of more than six tenants) can be forced to open in any extended trading hours. The Government is ensuring that they need not open if the tenants agree that it is not appropriate. That applies to any extended hours, whether the normal hours extended to 5 o'clock on Saturday or to any special extended hours which could be made by proclamation.

The Hon. DIANA LAIDLAW: I thought the Attorney said that was in relation to strip centre shopping. I am referring to large complexes such as Westfield. Will the Attorney clarify whether those safety provisions are also provided for those big complexes and that in future, with the passage of the Act, Westfield would not be able to force its tenants to open on a Sunday, as it appears it is able to, and is going to, for Sunday 11 November—this coming Sunday.

The Hon. C.J. SUMNER: This Bill will not be in effect on Sunday 11 November. When it is in effect, the provisions in clause 10, dealing with how one determines whether tenants are to open, will apply, for any extended hours—whether it be up to 5 o'clock on a Saturday, or whether it be any special extended hours on a Sunday by way of proclamation.

Amendment negatived.

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

Page 3, lines 40 to 42—Leave out these lines and insert:
'enclosed shopping complex' means three or more shop premises that comprise the whole or part of a shopping complex and that share a common area that is locked when they are closed for business so as to prevent public access to any of them through that area:.

Essentially this is a clarificatory drafting amendment. The amendment makes it quite clear that, where a shop has a public entrance from a common area which is locked at night and another entrance which is always open to the public, the shop will be included as a shop of the enclosed shopping complex.

The Hon. K.T. GRIFFIN: Does that mean that if there are two entrances to a shop which are accessible to the public and there are other shops in the complex which abut the common area, they will be part of the shopping complex and be bound by the decisions of the majority of the tenants?

The Hon. C.J. SUMNER: Yes.

Amendment carried.

The CHAIRMAN: I draw the attention of the Committee to the fact that in clause 10 there is a clerical amendment on page 4, line 7, which the House of Assembly has requested be made to the Bill. The amendment is that after the word 'Saturday' there should be inserted the words 'but not if the day is a public holiday'. That clerical correction will be made automatically.

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

Page 3, after line 34—Insert paragraph as follows:
(ea) the landlord is entitled to attend, and to be heard at, a meeting.

The essence of my series of amendments is that I want to ensure that a landlord has a right to call a meeting of tenants, to attend a meeting of tenants and to be heard at a meeting of tenants. Looking at new section 65 (5), one sees that no right is given to a landlord to do any of the things to which I have just referred. It seems to the Liberal Party that it is desirable that, if a landlord—for example, Westfield—perceives a marketing need to have shops open at times different from the standard trading hours, it ought to be able to convene a meeting of tenants to consider that and not leave it to any one or more of the tenants to seek to call the meeting.

The Hon. Barbara Wiese interjecting:

The Hon. K.T. GRIFFIN: It does. In my view, it does not make it clear that the landlord has a right to call a meeting of tenants. We are not giving the landlord any power over the tenants, except that, as the owner of the premises and the promoter of the businesses which are being conducted from the centre and providing a service to the community, the landlord ought to have an opportunity to call the meeting, to attend the meeting, not vote, and be able to speak on the issues before the meeting.

The Minister of Consumer Affairs interjected that, so far as the calling of the meeting is concerned, it does not prevent the landlord doing it; but in what I think can be a volatile climate it should be put beyond doubt that that is what can be done. I suggest that it is fair and reasonable to do that. It may be the necessary cataylst to get some action among the tenants. Therefore, I think it is desirable to give the landlord that right.

The Hon. C.J. SUMNER: The Government opposes the amendment. Anyone can call a meeting—tenants or landlords. However, there is no automatic right for a landlord to speak at a meeting. That is the position that the Government takes. Obviously, if the landlord is invited to speak at a meeting of tenants, that is fine, and I would imagine that in most cases he would be.

The Hon. K.T. GRIFFIN: I think that is bizarre. The landlord provides the premises and, either directly or through a manager, provides the common facilities. I should have thought that if there is to be some consideration of the hours of trading the landlord at least ought to have the right to put a point of view, because that is all it is. It is bizarre to suggest that a landlord who owns premises has to depend upon the good will of the tenants before he can speak and put a point of view which affects not only the landlord's investment but also the interests of the tenants.

I do not see any reason why we ought not to put into this provision a right for the landlord to speak. After all, the rights of the landlord are being abrogated quite dramatically by this legislation. It seems to me not unreasonable to provide some crumb of compensation if extended trading hours are to be an issue. It just does not prejudice the tenants. It may, in fact, assist them, but it does mean that the landlord has a right which is recognised at least to put a point of view.

The Hon. I. GILFILLAN: I think it is reasonable to expect to hear the Government's reason for opposing the amendment, and I would ask the Attorney-General to give it.

The Hon. C.J. SUMNER: The Hon. Mr Gilfillan obviously was not paying attention on this occasion, which is very unusual. I said that the Government opposed it because the legislation provides that the decision whether the complex should open during the extended period is a matter for the tenants to decide. That is what the legislation says and, if the tenants want to decide that off their own bat, they should be entitled to do so. If, on the other hand, they want to invite the landlord to come and discuss the matter with them and put a point of view, that is fine, too, and that is what the Government Bill allows.

The Hon. K.T. GRIFFIN: As I say, that is bizarre. The landlord is providing the facilities, the services, the cleaning, the security and a whole range of other things, and to say that he should not have any rights at all—

The Hon. C.J. Sumner: I didn't say that.

The Hon. K.T. GRIFFIN: You did. I am saying that the right ought to be recognised at least to attend and put a point of view on an issue which will affect the landlord's investment.

The Hon. I. GILFILLAN: The Democrats oppose the amendment. We feel that it is appropriate that the tenants make the decision. It is quite obvious that, if extra costs are imposed on the landlord, that will be fed through in charges that will go through to the tenants. Bearing in mind that there is a time frame for this original procedure to be tested—

Members interjecting:

The Hon. I. GILFILLAN: In spite of the crossflow of conversation, I am trying to attend to the amendment and indicate that the Democrats will oppose it.

The CHAIRMAN: The Chair appreciates that.

The Hon. K.T. GRIFFIN: Because of the hour, I do not intend to divide on the amendment. It is a very important issue of principle and I want it on the record. I must say that I am absolutely amazed that neither the Government nor the Australian Democrats will recognise that the personal body, which provides, in some cases, multi-million dollar facilities that are designed to provide a service to the community as well as a return to the investor, many of whom are unit trusts or superannuation funds, should not expressly be given the right to either call a meeting, attend a meeting or speak. That is all that is being asked. It is bizarre that they are not allowed to be recognised and must depend on the goodwill of the tenants in relation to—

The Hon. C.J. Sumner: I am not saying they can't attend.

The Hon. K.T. GRIFFIN: But they—

The Hon. I. Gilfillan: They can call the meeting.

The Hon. K.T. GRIFFIN: They can't. There will be an argument about it. Why don't you put it in if they can do it, because that is all we want? Put it in and make it clear. You say that they can talk about it, but it depends on the goodwill of the tenants who are present as to whether or not they can talk.

The Hon. I. Gilfillan interjecting:

The Hon. K.T. GRIFFIN: Goodness gracious me—it gives the tenants an opportunity to meet without the landlord. I just cannot believe that sort of bizarre situation, and I would record that I will not divide. Although I am inclined to, I recognise the hour and I do not wish to occupy the time of the Committee in doing that. But, I want it firmly on the record that I cannot believe that that is the reaction of either the Government or the Australian Democrats.

Amendment negatived.

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

Page 3, lines 40 and 41—Leave out 'the total number of tenancies in the enclosed shopping complex' and insert 'the number of tenancies in the shopping complex represented at the meeting by the attendance of the tenants of those tenancies in person or by proxy'.

The last amendment is designed to vary the majority of the vote which is necessary to amend the core trading hours. The Bill provides two-thirds of the total number of tenancies in the enclosed shopping complex. As I said in the second reading, I think that that is a very restrictive provision. It could potentially be adverse to the interests of the tenants and the landlord—the majority of the tenants—and, of course, there is no incentive to attend the meeting.

It would seem to me that with the proposition which I am putting, that the number required to change the core trading hours is two-thirds of those who are present in person or by proxy, there is both an incentive to attend and a more normal relationship between a majority and those who are present in person or by proxy. Of course, if you grant a proxy as I am proposing, it accommodates the needs of those who, for one reason or another, may not be able to be present.

The Hon. C.J. SUMNER: The Government opposes the amendment. We think that the two-thirds majority is a reasonable safeguard for tenants. It means, obviously, that a substantial number of tenants wish to open and all this means is that those who do not attend will be counted as voting against the resolution to extend their opening hours. The Government thinks that that is not an unreasonable position.

The Hon. I. GILFILLAN: The Democrats oppose the amendment.

Amendment negatived.

The Hon. K.T. GRIFFIN: I want to raise an issue on subsection (4), on the basis that this section will be repealed three years after the Bill comes into operation. I would like the Attorney-General to address the issue which I now refer to. Subsection (4) provides that a term of a commercial tenancy agreement in relation to premises in an enclosed shopping complex that was in force immediately before the commencement of this Bill, will only be void by virtue of subsection (2) to the extent that it requires the tenant to keep the premises open for business outside core trading hours.

My concern is that you have a tenancy agreement which is current at the moment. It might be for five years plus a right of renewal for five years. It may require the tenant to open at hours which are not core trading hours. This subsection will make void such part of that clause as requires opening beyond core trading hours. In three years time the section no longer operates.

In those circumstances, that part of the lease which has been declared void by this subsection (4) will not revive. I should like to see some attention given to ensuring that the provision might be, say, suspended rather than declared void, so that it will be revived at the point at which section 65 in clause 10 is repealed, and the interest of both landlords and tenants are maintained after that date, consistent with clause 11.

The Hon. C.J. SUMNER: We are happy to do that.

Clause as amended passed.

Clause 11—'Hours of business.'

The Hon. K.T. GRIFFIN: It is not now necessary for me to indicate any opposition to this clause. I did that when I talked about my amendment to clause 2. Clause 11 will actually come into operation in three years time and will then automatically repeal section 65 in clause 10. Whilst I have had my say on that and have opposed it at some length, I have lost the issue on clause 2 and, therefore, will be passive on clause 11.

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

Page 5, after line 17—Insert subsection (3) as follows:

A commercial tenancy agreement to which section 65 (4) (as inserted by the Statutes Amendment (Shop Trading Hours and Landlord and Tenant) Act 1990) applied will, on the commencement of this section, be reinstated to the form in which it applied immediately before the commencement of section 10 of the Statutes Amendment (Shop Trading Hours and Landlord and Tenant) Act 1990.

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

Amendment carried; clause as amended passed.

Title passed.

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

That this Bill be now read a third time.

The Council divided on the third reading:

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

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

Pair—Aye—The Hon T.G. Roberts. No—The Hon. M.J. Elliott.

Majority of 14 for the Ayes.

Third reading thus carried.

SMOKE-FREE ENVIRONMENT

The House of Assembly transmitted the following resolution:

That this House—

(1) endorses the decision of the Joint Parliamentary Service Committee to prohibit smoking in certain areas under its jurisdiction and calls on all membrs to abide by the terms and spirit of the decision;

(2) declares its support for the long-term introduction of a smoke-free environment throughout Parliament House; and

(3) prohibits smoking in and about the lobbies, corridors and other common areas of Parliament House under its jurisdiction.

The House of Assembly informed the Legislative Council that it desired the concurrence of the Legislative Council to paragraphs (1) and (2) and the adoption by the Legislative Council of paragraph (3) in relation to the respective areas under its jurisdiction.

RURAL INDUSTRY ADJUSTMENT (RATIFICATION OF AGREEMENT) BILL

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

The Hon. C.J. SUMNER: 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

In introducing this Bill, the Government is continuing its 1985 commitment that any future rural adjustment agreements will be individually formalised by the introduction of a short approving Bill, and is also continuing to effect rationalisation of legislation in the interests of efficiency.

The Bill repeals the Fruitgrowing Industry (Assistance) Act 1972 and the Beef Industry Assistance Act 1975 and ratifies the Commonwealth-States-Northern Territory Rural Adjustment Agreement 1989, which is authorised under the States and Northern Territory Grants (Rural Adjustment) Act 1988 of the Commonwealth assented to on 12 December 1988.

The Fruitgrowing Industry (Assistance) Act 1972, which provided grants for a tree-pull scheme for the removal of peach and pome trees and the Beef Industry Assistance Act 1975, which provided financial assistance to specialist beef producers are to be repealed because there are no longer any active accounts in either of these schemes. Furthermore, residual amounts in the Fruitgrowing Assistance Fund which was associated with the Fruitgrowing Industry (Assistance) Act 1972 was transferred to consolidated revenue in 1983 and the last repayments on amounts advanced by the Commonwealth Government under the Beef Industry Assistance Act 1975 were made in 1985.

Following negotiations in 1980 the Commonwealth and States agreed to certain changes in the method in which Commonwealth funding was made available to the various States for rural adjustment schemes. The 1988 agreement replaced one originally made in 1985, and subsequently amended in December 1986. The new agreement allows provision of assistance similar to that of previous rural adjustment schemes but with increased emphasis on adjustment, greater managerial and financial flexibility and therefore increased accountability for the States and Northern Territory. As before, assistance falls into three categories:

Part A provides assistance to marginally non-viable primary producers for farm build-up, farm improvement and debt reconstruction purposes.

Part B assistance is for carry-on finance for eligible farmers in rural industries or regions experiencing a severe short-term downturn.

Part C provides household support and re-establishment assistance to support farm families while they decide whether to adjust out of farming and if so, to enable orderly realisation of their farm assets and to help with their subsequent off-farm re-establishment.

There have been refinements to the funding arrangements and major changes to some assistance measures although subsidies and grants provided by the Commonwealth continue at the same rates as in the previous scheme.

To date most of the changes to the Commonwealth-State agreements have involved the amount of interest rate subsidy that the Commonwealth pays to the States.

In the 1985 Commonwealth-States-Northern Territory Rural Adjustment Agreement the Commonwealth instigated a scheme of providing annual grants to subsidise the interest cost of borrowings by the State to fund loans to farmers. The 1986 amendment to the Commonwealth-States-Northern Territory Rural Adjustment Agreement limited the amount of interest subsidy by defining a maximum interest rate that could be used in the subsidy calculation. The Federal Minister nominated the Primary Industry Bank of Australia to be the benchmark lender.

The 1988 Commonwealth-States-Northern Territory Rural Adjustment Agreement provides, in essence, that under Part A the total amount of interest subsidy for any given year is now determined as the additional subsidy for that year plus the sum of similar determinations for the previous six years.

Also under the new agreement a State may allocate Part A assistance between farm build-up, farm improvement and debt reconstruction as it sees fit without the requirement of meeting target percentages specified by the Commonwealth. A State is now entirely responsible for bad debts arising from its lending or interest subsidising activities in contrast to the former 5 per cent of total borrowings. However, assistance received from the Commonwealth and any surpluses earned may be used in providing for such bad debts. Trading in land by the States is also possible under Part A of the new agreement. Carry-on finance for drought recovery may now be included in Part B assistance.

Significant changes have been made to Part C assistance. Household support is now available for up to one year unless clients genuinely attempt to sell their farming assets at realistic prices in which case it may be extended for a further year (reduced from two years). Assistance is provided as a secured loan which is only converted to a grant if clients' farming assets are sold within two years (30 months in certain circumstances) of first receiving household support. The maximum amount available as a re-establishment grant has been increased from the former $8 000 to $28 000 indexed (in line with the Consumer Price Index) from 1 July 1988.

Despite the greater accountability imposed on the States (reflected in the more detailed reporting required by the Commonwealth) the new rural adjustment scheme provides scope for more effective assistance to primary producers because of its greater flexibility and enhanced adjustment measures.

Clause 1 is formal.

Clause 2 provides for retrospective operation of the Act.

Clause 3 defines 'the Agreement'.

Clause 4 repeals the Fruitgrowing Industry (Assistance) Act 1972 and the Beef Industry Assistance Act 1975.

Clause 5 gives approval to the execution of the Agreement and ratifies Acts of the Minister done in anticipation of the Agreement coming into force.

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

STATUTE LAW REVISION BILL (No. 2)

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

WILPENA STATION TOURIST FACILITY BILL

Adjourned debate on second reading.

(Continued from 7 November. Page 1585.)

The Hon. J.C. BURDETT: I support the second reading of this Bill. The subject has been very emotionally charged but, when it is brought back to basics, there are not a lot of problems. A great deal of ploy was made by the press and others of the alleged retrospective nature of the Bill in its original form. I have always maintained that retrospec-

tive legislation ought to be carefully scrutinised. I say this because retrospective legislation has another dimension, namely, its retrospectivity which must be considered in addition to the considerations which apply to a prospective Bill.

There are, broadly speaking, two kinds of retrospective legislation. There is legislation which renders acts which were previously lawful retrospectively unlawful. Generally speaking this is unacceptable. Two examples are the 'Get Brian Warming Bill' in the 1970s and, Federally, the 'Bottom of the Harbour' scheme. The other kind of retrospective legislation is that which renders something which was previously unlawful retrospectively lawful. From the point of view of civil liberties, and in general, this kind of retrospective legislation is far less objectionable and is quite often exercised.

Some time ago a Bill was introduced which was retrospective to 1858. This related to the signature on certain documentation relating to Assent to Bills. The original Act had provided that the signature must be that of the Chief Secretary and not of any other Minister. This had been forgotten about and most of the legislation passed in South Australia in the meantime was therefore technically invalid. Parliament found no difficulty in passing this very retrospective Bill. Yesterday, we dealt with Adelaide Children's Hospital and Queen Victoria Hospital (Testamentary Dispositions) Bill. This Bill was expressed to operate from 19 January 1989. It also expressly referred to its own retrospectivity, but we did not find any difficulty with that.

This present Bill in its original form provides in clause 7 (2) that 'the Planning Act 1982 does not apply and will be taken never to have applied to or in relation to the lease'. I had no great objection even to this. Planning laws are purely a creature of statute and retrospective legislation is often used to clear up doubts about the interpretation of statutes. In any event, I would have called this retroactive rather than retrospective. However, this subclause was removed in another place by a Liberal amendment. It replaced it in effect by what is now clause 9 (1) and (2) which provide:

(1) 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 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.

This is not as blatantly retroactive but it still has the effect of course of cutting the ground from under the feet of the appellants in the relevant High Court case. In a way, I suppose I feel sorry for those appellants, but I do not think there was any objection to that amendment.

The question of balancing development against the preservation of the environment is always a delicate one but I believe that the Bill as amended does achieve that balance. This issue has had a lot of emotionalism injected into it, largely through harping on retrospectivity and development in a national park. I have dealt with retrospectivity. The question of development in a national park is, in this case, almost semantic. What is a national park? The Government bought Wilpena Station as recently as 1986. At the time, it had the option of declaring it a national park or not. If it had not, this particular emotional argument would not have been available. I consider it to be purely fortuitous that it has been declared a national park.

A great deal of the correspondence which members have received has argued that it cannot be conclusively demonstrated that there will be no adverse effect on the underground water supply. The effect of a development on underground water supplies cannot in the nature of things be proved conclusively in the sense of proof as in a scientific laboratory test. However, I am satisfied from the evidence which has been presented that there is no danger to the underground water. I support the second reading and I will support the Liberal Party's amendments to the Bill in the Committee stage.

The Hon. BERNICE PFITZNER: I approach this Bill with concern and grave misgivings. Although I have not been closely associated with the Flinders Ranges and Wilpena Pound, I am aware of the sentiments this area evokes. After 1 600 million years the Flinders Ranges rise proudly beautiful, one of the world's most ancient and yet vulnerable landscapes. It has an aura of indomitable spirit and beauty, and despite its bold features, the Flinders Ranges are fragile and must be respected, and the jewel in the crown, Wilpena Pound, lies in the heart of one of the few quartzite mountain groups.

The pound is a shrine to thousands of South Australians who go there to survey the remoteness and the sound of silence, but we cannot keep this all to ourselves; we need to share this strange and beautiful place. How best can we do this? We must develop the area so that it is ecologically sustainable. Ecologically sustainable development means using, conserving and enhancing the community's resources so that ecological processes on which life depends are maintained and the total quality of life now and in the future can be increased. Some general principles of ecologically sustainable development are, first, integrating economic and environmental goals in policies and activities; secondly, ensuring that environmental assets are appropriately valued; thirdly, dealing cautiously with risk and irreversibility; and, fourthly, recognising the global dimension.

We must try to optimise economic growth and environmental protection. There should be an integrated approach to conservation and development by taking both conservation and development aspects into account from the outset. Our economic activities affect the environment and, if we do not look after our environment, our economic future can ultimately be put at risk. If we move to the concept of ecologically sustainable development, it can open up new commercial opportunities and provide both economic and environmental benefits.

This is our great challenge: to promote both environmental goals and economic prosperity. Therefore, for the development of Wilpena we ought to be guided by the principles of ecologically sustainable development.

Regarding the political aspects, the Labor Government could have applied the 1982 Planning Act, section 50; but, no, it did not have the courage of its convictions and it did not want to be fully responsible for allowing the Wilpena site to be developed. So, it pulled a rabbit out of the hat: a special Bill for Wilpena known as the Wilpena Station Tourist Facility Bill.

The Liberal Party was now in a no-win situation. If it voted against the Bill, the Opposition would be seen to be against development; but if it voted for the Bill then, with the major environmental issues still not addressed in the Bill, it would not be ecologically sustainable and future development would be jeopardised. So the Opposition had no choice but to make amendments to improve the Bill. Some amendments have been accepted and the Bill has now passed through the Lower House.

The problem now for the Upper House is that the end becomes so important that the truth is disguised or lost and the perception of truth takes over. The perception now is that if the Opposition votes against the Bill, the Party is

seen as anti-development. Indeed, the Minister for Environment and Planning in the other place, in the second reading explanation on 11 October, said:

The Australian Conservation Foundation appeal action to the High Court has a major impact on investment interest in the Wilpena project. Confidence in the project, indeed, in investment interest in South Australia, was seriously affected.

If the Opposition votes for the Bill it is seen to accept an ill-conceived Bill in which the proposed development may not be ecologically sustainable.

The truth, as I see it, of the Wilpena project is not whether we want development. We all know that development is the only way to share the Wilpena Pound, but it is the kind of development that we are looking at. However, before we can decide on the type of development, we need to know the adequacy of the water supply.

The communications from various experts show that none are confident that the water supply is adequate for the long term (30 to 50 years) and some believe that for the short term (four to 10 years) it is possibly satisfactory.

I will quote some communications on the adequacy of the water supply. The first is October 1989 when the Chairman of the Arid Areas Water Resource Advisory Committee said:

Following some discussion on the matter the committee expressed considerable concern that there appears to be inadequate investigation and bore testing in the area to ensure an adequate water supply for the development's future.

Secondly, in July 1988, in a submission to the environmental impact study, Dr R. Spriggs, geologist, Arkaroola, said:

So far, two only new wells have been drilled and reasonably extensively tested. Unfortunately the bores lie within the Wilpena Creek drainage zone and were drilled and tested in a relatively wet year, at the end of the wet season . . . Much more thorough search and testing needs to be conducted. It is asking much in a very dry year (which 1987 was not) to expect annual withdrawals of hundreds of megalitres from a localised bore drilled in dense rock. There are no significant porous limestone known in the immediate vicinity or underlying prominent creek drainage lines. Nor have any conveniently related fault crush zones been tested for drilling. One local bore nearer the Wilpena Station is known to have forked (run dry) in a past drought.

Finally, no mention is made as to possible adverse effects downstream.

Thirdly, in October 1988, the Director-General, Department of Mines and Energy, said:

Wilpena Spring—The estimate of the yield of the spring is based on a test carried out in July 1979 after a very wet year in 1978.

There is no mention of the possible environmental effects of increased withdrawal from the spring. It can be anticipated that if the level of the waterhole is lowered there will be some effects on the surrounding vegetation.

The 78 ML per annum required for domestic use is available from Wilpena Spring and the two wells drilled in the medium term at least (10-20 years). A combination of a long drought and falling water levels could make drilling additional wells necessary.

In October 1990, a senior hydrologist from the Department of Mines and Energy advised by telephone that he was not able to give a prediction for the long-term supply, and that it would need more investigation. In January 1989, the Department of Environment and Planning carried out an assessment of the potential environmental impacts. Its recommendations with respect to the water supply were as follows:

Because of the uncertainty about the long-term sustainability of the water supply, it is recommended that:

(a) a comprehensive program of drilling and pump testing be undertaken to prove the long-term sustainability of water supplies. Any approval for the project should be conditional upon this work being undertaken immediately to a standard approved by the Chief Executive Officer of the Engineering and Water Supply Department.

Because of the uncertainty about the effect of increasing the quality of water drawn from Wilpena Spring and in recognition of the significance of the vegetation dependent on the spring, it was recommended that:

(b) the intake of water to be drawn by gravity from the spring be set at a level which ensures no more water can be drawn if the spring water level drops to one metre below the level of the outflow into the creek, unless further studies confirm that the intake can be located lower without detriment to vegetation.

In June and July of 1989, Dr Stanger, a hydrologist from Flinders University, stated:

Traditionally, the main source of water in the area is the Wilpena Spring . . . but apparently no attempts have been made to measure the total spring discharge . . . assessment of this most important resource is dependent upon anecdotal evidence . . . The ground water consultants (Water Search—Ophix Consultants) conducted rate pumped testing upon the abovementioned boreholes for 36 hours.

That was in August 1987. Dr Stanger continued:

Whilst such yields have been demonstrated for the short term and perhaps medium term, it is not valid to claim a long-term safe yield on the basis of such a short test . . . At least one further ground water supply will be needed before the long-term projected water demand can be met with confidence.

I turn now to the Bill and the lease, which are what I call abortions because they are ill-conceived, deformed and born before time. Clause 12.2.3 (page 44) of the lease states:

The lessee will . . . provide for the supply of potable water to the demised premises.

Clause 5.12.3 (page 21) states:

Water removal from the Wilpena Spring by the lessee will not be greater than that which lowers the level of Wilpena Spring by more than one metre.

If the lessor prohibits water under clause 5.12.3, who is responsible for making up the shortfall? Is it the lessor or the lessee? Clause 13.7 states:

The lessor shall compensate the lessee for all loss and damage suffered by the lessee if there is no negligence on the part of the lessee.

If the lessor were to direct that activity be stopped due to environmental damage, for example, to stop watering because the level of the spring was falling critically, under clause 13.7, compensation by the lessor, which is the Government, to the lessee, will eventuate. In the fourth schedule of the lease the numbers and the description of the accommodation varies from the Bill. The lease provides for hotel rooms, accommodation units, cabins, and dormitory beds. The Bill provides for bedrooms, bungalows and powered caravan sites. Again, schedule 4 provides that the lessee shall be entitled to vary the mix of accommodation with the consent of the lessor.

So, it can be seen that, if the lessee so desired, he or she could have all hotel accommodation, no bungalows, no dormitories and no camping sites, because the lessee is entitled to vary the foregoing mix. I know that this is an extreme example, but I put it here to show the weakness in the legislation. Clause 9 (1) provides that the Acts not to apply are the Planning Act 1982, the Native Vegetation Management Act 1985 and the National Parks and Wildlife Act 1972.

Special dispensation has been given to this Wilpena Station tourist facility. With the Labor dictum of equal opportunity and social justice, it is rather hard for me to understand this special dispensation. In this context, the ACF has also been discriminated against and compensation must be considered. Clause 12 (1) provides that nothing in this Act varies the lease. The lease, then, overrides the Act.

I admit that I am not a lawyer, but it seems curious to me that an Act can be overridden by a lease. Clause 12 (2) has been interpreted to mean that, if the lessee does not

abide by this Act, the lessee loses the special privileges of the Planning Act, etc. I see that as being at odds with clause 12 (1), which provides that the lease is more important than the Act. Other colleagues have argued the issue of retrospectivity. However, this issue is complex and tends to detract from the argument.

In conclusion, there are grave concerns regarding the legal documents and even graver concerns regarding the water situation. I put it to my colleagues that with no guarantee of long-term water—and the lease is long term, for 45 years together with any extension—onto whom will we push the responsibility when the water table drops, the trees and shrubs die and the birds stop singing? We would have helped kill the goose that laid the golden egg.

The Hon. R.R. ROBERTS secured the adjournment of the debate.

ADJOURNMENT

At 6.8 p.m. the Council adjourned until Tuesday 13 November at 2.15 p.m.