LEGISLATIVE COUNCIL

Wednesday 5 December 1990

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

QUESTIONS

STATE SUPPLY CONTRACTS

The Hon. K.T. GRIFFIN: I seek leave to make an explanation before asking the Minister of State Services a question about State Supply contracts.

Leave granted.

The Hon. K.T. GRIFFIN: Tender documents issued by State Supply for the provision of, in this instance, engine accessories, filters and spark plugs, require suppliers/contractors to pay a commission of 1 per cent of the value of sales to State Supply. I presume that the tender documents are similar in respect to the supply of other products and materials through State Supply. In the tender documents which have been forwarded to me, the products are to be supplied by the supplier to various State Government agencies, departments and other bodies under the tender over a period of some four years, with prices being required for both a two-year period and a four-year period. The successful supplier is required to provide a detailed list of all sales under the tender on a quarterly basis and to calculate the 1 per cent commission and pay that.

The company which has referred this to me says that considerable detail is required in the tender documents and, obviously, the calculation of the 1 per cent commission is going to add to administrative costs and, of course, will be reflected in the price. The company which has referred this to me also said that the requirement to pay commission to State Supply is ridiculous, considering that prices which are quoted for the supply of these products and materials are most likely to be increased by at least the 1 per cent commission to be paid by Government agencies and departments. So, the money just goes around in a circle within the Government and Government agencies, costing the supplier time and money to administer.

The company says, on the documents it has seen and looking at the 1 per cent commission which is required to be paid, that it appears that really the money is just being shuffled from one Government pocket to another Government pocket. My question is: what sense is there in State Supply requiring the payment of commission by successful tenderers on goods purchased from those tenderers, when the commission will be built into the tender price of the goods and when effectively it will be shuffling the 1 per cent from one Government pocket to another?

The Hon. ANNE LEVY: I think the firm that has contacted the honourable member on this matter is probably unaware that commissions on goods purchased under State contracts have always been subject to a commission: that there is no net increase to Government funds whatsoever as far as this commission is concerned. What is occurring is a change in the procedures that have been used. In the past, all Government agencies have been required to pay a commission fee to State Supply for the use of Government contracts, but it has been on an agency basis, on some sort of evaluation of how much use they make of State contracts that have been organised by State Supply.

It was felt that this was unfair in that some Government agencies were probably paying more than they should and others were paying less than they should. So, to use the system whereby the supplier adds the commission to the charge to the Government agency and then passes the commission on to State Supply is much fairer in that Government agencies will be paying according to their use of contracts which have been negotiated by State Supply.

The necessity for doing this comes from good accounting practices undertaken by the State Government, that there is in fact a proper accounting of the costs of supply; that the cost of supply is not just the cost of goods but there is also a cost for negotiating the contracts, putting them in place—and the whole function of supply that is carried out by the State Supply Board. To not account for that would be giving an incorrect assessment of what supply costs the Government.

As far as the private suppliers are concerned, I understand that a number of them have been slightly confused by this changed procedure. I appreciate the concern expressed by some of them that there will be extra administrative work involved from their point of view. On the other hand, I do not see that it really involves extra administrative work because they do have to itemise what they are supplying to particular Government agencies anyway, and it is not very onerous to calculate 1 per cent of the total and take a photocopy of what they are submitting as an invoice.

Furthermore, because they will need to transmit the 1 per cent commission to the Supply Board only once every three months, they will in fact be holding the money on the part of the State Supply Board for anything from one to 90 days before they have to transmit it and will be able to benefit by whatever interest they gain on that money for the time they are holding it. It is not felt that it is an imposition on the private sector in any way and in fact it has only been misunderstanding by a few firms that has led to queries such as the one raised by the honourable member. Most firms have accepted it very happily. I may say that this is not unique to South Australia; the Commonwealth supply function has already adopted this procedure with, I may say, a higher percentage commission than the State Supply Board is using, and other States are certainly likely to follow suit very soon if they have not already done so.

Members interjecting:

The Hon. ANNE LEVY: The firms can obviously build it into the price. I do understand that in one or two instances the firms have decided not to build it into the price and to carry it themselves, but that is entirely up to them, and there is certainly no suggestion that they are required to do so.

ACCOMMODATION LEVY

The Hon. DIANA LAIDLAW: I seek leave to make a brief explanation before asking the Minister of Tourism a question on the subject of an accommodation levy or bed tax.

Leave granted.

The Hon. T.G. Roberts: That would be uncomfortable.

The Hon. DIANA LAIDLAW: It would be most uncomfortable if introduced in this State; the industry would not be pleased. On 16 April this year the Minister rejected without qualification the introduction of an accommodation levy or bed tax in South Australia. A bed tax is a Government revenue raising initiative which adds between 2 and 10 per cent to the cost of accommodation. The Minister argued at that time that, at such an early stage in South Australia's tourism development, such a tax would, first, act as a disincentive and limit the State's competitive-

ness; secondly, be difficult for South Australia to impose in isolation from other States; and, thirdly, impact unfairly on the hotel industry, as only about 18 per cent of tourists' nights are spent in hotels and motels.

I note that these conclusions were supported by an evaluation of the bed tax commissioned by Tourism South Australia and conducted by the Centre for South Australian Economic Studies. The centre concluded there is insufficient evidence regarding the benefits from the imposition of such a tax, coupled with significant efficiency and equity questions surrounding this impact.

The Minister would be aware that in April this year the Australian Hotels Association and the tourism industry in general applauded her rejection of the introduction of such a tax and also that the AHA in Victoria, together with the Australian Tourism Industry of Australia, last month was effective in its fierce lobbying to defeat an attempt by the Kirner Government to introduce such a tax or levy in that State as part of Victoria's budget process. As I understand the Minister is anxious to improve Tourism South Australia's budgetary position, will she now confirm that she still rules out the notion of a bed tax being introduced in South Australia?

The Hon. BARBARA WIESE: The points I made when the question was raised earlier in the year are still the views that I hold on the question of a bed tax. I believe that the South Australian industry is at a fairly early stage of its development. I would be reluctant to see a bed tax or an accommodation tax introduced in this State when we know that the only other place in Australia where such a tax is imposed is in the Northern Territory. Although the cost that would be added to the price of a room would be relatively insignificant and is unlikely to have any real impact on a visitor's decision whether or not to visit the State, nevertheless, I feel that the timing is not good and that the imposition of such an impost would be undesirable.

That is not to say, however, that in the current economic climate this is a matter that should be entirely off the agenda for discussion. It is a responsibility of this State Government and all Governments in Australia at least to investigate what measures are available to us to raise sufficient revenue to be able to pursue tourism promotion adequately to meet the needs of the industry.

I must say that some people in the South Australian tourism industry, at least privately, share that view and would consider that such a matter at least ought to be considered if there is some possibility that it could contribute significantly to a better promotion of our tourism product.

Of course, a number of other options for raising revenue for this purpose should also be investigated. Indeed, currently a study, which has been supported by tourism Ministers around Australia and which is being conducted at the behest of the Australian Tourism Commission, is investigating options for revenue raising for tourism promotion including an accommodation tax and a suggestion of a small impost on the cost of airline tickets in certain circumstances. So, a range of ideas has been raised in various parts of Australia.

I expect that the results of that national study will be known some time during the first half of next year. That information will be very helpful for both the South Australian Government and the South Australian tourism industry in assessing the future possibilities for tourism marketing for our State.

The Hon. DIANA LAIDLAW: The Minister, in reply to a letter from the Leader of the Opposition, dated 10 September, stated that the Government had no intention of introducing such a tax. In view of the assessment of the feasibility of such a tax being conducted at present, which seems contrary to the Government's and the Minister's indications to the hotel industry in the State to date, is it the Government's intention to impose such a tax on the industry if it continues to object to such an initiative?

The Hon. BARBARA WIESE: The information that I provided recently to the Leader of the Opposition, which indicated that the Government had no intention of introducing an accommodation tax in South Australia, is the position of the Government. As far as I am aware, there is no intention, either on my part or that of the Government, to consider such a tax at this time.

That is not to say that the options should not be among those that are investigated in the current economic climate, as I have indicated. As the honourable member would be aware, at this time, every Government agency in South Australia is being reviewed for efficiency and as to whether or not the functions that are currently being performed are being performed appropriately, whether the range of services that is being offered by Government is appropriate or whether those services ought to be—

The Hon. Diana Laidlaw interjecting:

The Hon. BARBARA WIESE: That is not what I am arguing. If the honourable member listened she would have some appreciation of what I am arguing.

The Hon. Diana Laidlaw interjecting:

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

The Hon. BARBARA WIESE: I am talking about the reviews that are taking place at this time in the South Australian Public Service. Every agency of Government is being asked to review whether its range of functions is appropriate, whether some other agency or level of government might more appropriately pursue particular functions, and whether there are functions that are not being performed at the moment that could be performed by State Government agencies—

Members interjecting:

The PRESIDENT: Order!

The Hon. BARBARA WIESE: —and performed more appropriately. Through these methods, we hope that the Government might be in a position to reallocate its resources—its shrinking resources, I might say, as the honourable member would be aware—to those functions of government that we believe are most appropriate for the Government to be concentrating its efforts on. During the course of that process, every item that has been suggested by any source must be studied by Government agencies. Certainly, the question of an accommodation tax has been suggested not only by people within Government but also by people within industry as an appropriate way of raising new resources in an economic climate—

The Hon. Diana Laidlaw interjecting:

The PRESIDENT: Order!

The Hon. BARBARA WIESE: —where it is difficult for Governments to find new resources.

The Hon. Diana Laidlaw interjecting:

The PRESIDENT: Order! The honourable Minister is addressing the question.

The Hon. BARBARA WIESE: In that climate, it is the responsibility of Ministers, in whatever area of government, to be open to studying whatever those options might be. I have made my position on that question perfectly clear. It is not my intention to recommend the imposition of an accommodation tax. I do not believe that it is the Government's view that there should be an accommodation tax, and the information that I provided to the Leader of the

Opposition indicates the Government's position on this question.

LOCAL GOVERNMENT ACT

The Hon. J.C. IRWIN: Does the Minister of Local Government intend to introduce before the 1991 council elections amendments to the Local Government Act to vary the terms of councillors?

The Hon. ANNE LEVY: I would be very happy to do so. Obviously, it would have to be early next year, but I am still having discussions with the Local Government Association about this matter. I have told the Local Government Association that I would be very happy to introduce amendments to extend from two to three years the terms for local councillors, but I do not support the current Local Government Association policy of four-year terms with half being elected every two years. I do not imagine that the honourable member wants to hear my reasons for that at the moment, although I am quite happy to provide them if he would like to hear them.

As I say, I have had discussions with the Local Government Association, and I have indicated to it that I would be happy to introduce three-year terms provided that it supported this introduction wholeheartedly and that it would not seek amendments to change that position. As I understand it, the working party which the Local Government Association set up some six to eight months ago, concluded that three-year terms would be preferable for members of local councils but, when the Local Government Association debated this matter as a whole it retained by a narrow majority the policy of four years with, nevertheless, elections every two years as at present.

Therefore, from my point of view, the ball is in the court of the Local Government Association, and I will be happy to continue to have discussions with it to see if an acceptable position can be reached.

WOOL QUOTAS

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister of Tourism, representing the Minister of Agriculture, a question concerning wool quotas.

Leave granted.

The Hon. M.J. ELLIOTT: As I understand it, the Wool Corporation has put forward, as part of a package aimed at cutting sheep flock sizes in Australia, a proposal to set quotas for woolgrowers. I believe the proposal is that on an individual basis there will be a cutback of 25 per cent on wool sold. That proposal would use as a base the production for the 12 months to 2 November 1990.

I understand that, while South Australian wool production has remained relatively stable over recent years, the trend in other States has been for greatly increased flocks and, therefore, increased wool production. That has been the case particularly in New South Wales and Western Australia, where the production may have increased by about 60 or 70 per cent over the past four or five years. A quota system which is based on figures incorporating that increased production would, quite clearly, disadvantage South Australian woolgrowers in that one would have to assume that, if the South Australian wool clip has remained relatively stable, individual growers have produced more or less the same wool clip, whereas individual growers in other States have not. My questions to the Minister are:

1. Can the Minister supply figures on the annual production of wool in each State over the past decade?
2. Does the Minister agree that a quota system based on production over the past 12 months alone would especially disadvantage South Australian producers?
3. Will the Minister consider lobbying for the use of average production over a longer period—perhaps, for example, the last decade—as a base for quotas if the quota system is ultimately introduced?
4. What other courses would the Minister take at this stage to ensure that South Australian woolgrowers are treated equitably?

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

HEALTH COMMISSION STAFF

The Hon. J.C. BURDETT: I seek leave to make a brief explanation before asking the Minister of Tourism, representing the Minister of Health, a question on the subject of discrimination in staff cuts in the South Australian Health Commission.

Leave granted.

The Hon. J.C. BURDETT: I have had representations made to me by constituents who work in hospitals, principally hospitals for the mentally disabled. These constituents and others became disaffected with the Federated Miscellaneous Workers Union of Australia because they felt that this union failed totally to represent their particular interests. These constituents therefore formed the Health and Allied Workers Association, which is incorporated under the Association Incorporations Act, although it has not yet been recognised for industrial purposes. This demonstrates a significant disenchantment with the Health Commission.

The point I raise is the compulsory unionism aspects of the matter. The South Australian Health Commission has announced staff cuts. On 17 October, in another place, the Premier, in answer to the member for Kavel (*Hansard*, page 1114), said:

> I do not know how seriously the honourable member expects the question to be treated. All that he has quoted—and I have not read the statement—says nothing about the Government's plans, intentions or anything else. I would imagine that no assurances were given about non-unionists because none was sought. The fact is that our policy of non-retrenchment, which is reflected in that statement by the PSA, applies to our permanent employees—full stop. There is no question of discrimination of any sort. It is certainly true, as I have affirmed a number of times in this House, that we encourage people to be members of their appropriate industrial organisations. We think it is appropriate that they do so.

So, the Premier is saying that there will be no discrimination in retrenchment—in staff cuts, in effect. The FMWU, however, in a letter to members of the Health and Allied Workers Association, dated 22 August 1990, said:

> Arising out of your resignation, you are required to pay three months union dues to the union in accordance with the rules, and in particular Rule 7—Resignation of Members, if it is your intention to continue working at Hillcrest Hospital, the amount being $40.50 from the 1990.

That is how the letter reads. I presume it means from the 1990 fees. There was another letter of demand written to HAWA members on 22 November 1990. So, the suggestion was continuing, and it is contrary to what the Premier said. There is discrimination. The FMWU is saying, 'If you are not a unionist or not a member of the FMWU, you will not be able to go on working at Hillcrest Hospital'. My question is: if cuts are made (and they have been forecast) at Hillcrest Hospital and the other hospitals, will any dis-

tinction be made between FMWU members, on the one hand, and the HAWA members and non-unionists, on the other?

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

SATCO

The Hon. L.H. DAVIS: I seek leave to make a brief explanation before asking the Minister of Tourism, representing the Minister of Forests, a question about Satco.

Leave granted.

The Hon. L.H. DAVIS: The report of the Legislative Council Select Committee on the Effectiveness and Efficiency of Operations of the South Australian Timber Corporation was tabled in April 1989, just 19 months ago. It was a committee consisting of three Labor members, two Liberal members and one Australian Democrat. The committee was unanimous in its condemnation of Satco's management and financial expertise. It found that:

> Satco was clearly lacking in the management and financial expertise necessary to enter the merger negotiation ... Satco's investigation and analysis of the merger proposal was inadequate.

It also noted:

> There was a failure to gather and check basic information required to make a sound commercial investment, including independent advice about the Greymouth mill.

It went on to note:

> There was a failure by Satco to note and act on the clear warnings in the Allert Heard reports and correspondence provided to Satco over a period of four months before the merger.

These were strong words, unanimously supported by all members of the select committee. Since that date, the fiasco of the Greymouth plywood mill has continued. Only this week, the Minister of Forests, The Hon. Mr Klunder, advised that, although tenders closed five weeks ago, the Bannon Government has been unable to sell the Greymouth mill. This means that a massive loss of at least $15 million has been crystallised on the Greymouth mill since it was purchased in 1986.

Last month I discovered that annual returns for the company bought by Satco had not been lodged for several years immediately before the sale took place. If that had been checked out, it was surely a huge red warning light to any prospective purchaser. The committee, and indeed the Auditor-General, were also highly criticial of the Satco operation at Williamstown. The Williamstown mill closed in July 1990. Yet, a mill purchased overseas in May 1987 for $680 000 was never installed at Williamstown. A new kiln approved by the Hon. Mr Klunder in late 1988 at a cost of over $400 000 was purchased, but in fact it was also never installed. The Liberal Party continues to receive serious allegations of mismanagement of the Williamstown mill in the years prior to its closure.

The Greymouth and Williamstown mills have cost the taxpayers of South Australia at least $16.5 million to date, and serious allegations of financial and administrative mismanagement have been made. It seems that it is not the private sector alone that has corporate cowboys: Satco also had its corporate cowboys. My questions are:

1. In view of this strong evidence, has the Government investigated the circumstances surrounding the allegations of Satco's mismanagement at Greymouth and Williamstown and, if not, why not?

2. Has the Government considered taking any action against any past or present employees or consultants of Satco and, if not, why not?

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

SOUTH ROAD CONNECTOR

The Hon. J.F. STEFANI: I seek leave to make a brief explanation before asking the Minister of Tourism, representing the Minister of Public Works, a question about the South Road connector.

Leave granted.

The Hon. J.F. STEFANI: Recently, the Department of Road Transport invited public comment on the proposed arterial road connecting Salisbury Highway and South Road. The construction of this roadway is expected to cost $41.3 million and is scheduled to be commenced in 1991. The Department of Road Transport claims that the road will reduce traffic congestion in the Cavan area and at the Gepps Cross intersection, improve access between the developing northern region and the western region of Adelaide and provide arterial road access to the Wingfield industrial area.

The construction of this project incorporates the closure of South Terrace, on the eastern side of South Road, and operators in this area claim that this will bring major traffic restrictions to at least 60 businesses currently operating from this developing area. It has been suggested that, apart from the road traffic restrictions, access to the entire area via Wingfield Street will cause major concerns in the event of a fire and/or industrial or chemical accident. If, for any reason, Wingfield Street is blocked by any vehicular accident, the entire area will be isolated. Despite a representation to the department, businesses from the area have been advised that their submissions will not change the Government's proposal. My questions are:

1. Is the Minister aware of the attitude adopted by his department?

2. Can the Minister provide business operators in this area with a guarantee of reasonable and safe access to their business premises in the event of an accident?

3. Will the Minister advise if his department has prepared a report in relation to fire safety and/or in the event of an industrial, chemical or vehicular accident in this area?

The Hon. BARBARA WIESE: I suspect that the honourable member's question was directed incorrectly to the Minister of Public Works, whom I represent in this place. I suspect it is more likely to be a matter for the Minister of Transport. Nevertheless, I shall undertake to ensure that the honourable member's questions are referred to the appropriate Minister and that a reply is brought back.

WOOL

The Hon. T.G. ROBERTS: I understand that the Minister of Tourism has a reply to the question I asked on 24 October about the Australian wool clip.

The Hon. BARBARA WIESE: My colleague, the Minister of Industry, Trade and Technology, has advised that this department has, for the past two years, engaged on a program of encouraging new investments in wool processing activity. This program was initiated to complement the implementation of the Federal Government's textile, clothing and footwear industry plan. Since the commencement of this State program, the South Australian Government has been able to announce the acquisition of the wool spinning mill at Mount Gambier and the subsequent consolidation in South Australia of the national wool spinning

activities of Bunge (Australia) Pty Ltd. The Government has also been able to receive an investigatory team from the Italian wool garment manufacturer Benetton during 1989. The efforts of the Government and particularly the Department of Industry, Trade and Technology in this direction are continuing.

In July of this year the Federal Government announced a review of the wool industry, to be headed by Sir William Vines. The Vines committee will inquire into a number of aspects of the Austrlaian wool industry, including the arrangements for processing wool in Australia. The Minister of Industry, Trade and Technology has responded to an invitation from Sir William Vines and the South Australian Departments of Agriculture and Industry, Trade and Technology will be making a joint submission to the committee of inquiry.

DESERT PASSES

The Hon. PETER DUNN: I seek leave to make a brief explanation before asking the Minister of Tourism a question about desert passes.

Leave granted.

The Hon. PETER DUNN: For those uninitiated, a desert pass is what a person purchases when they want to go into the Simpson Desert or like country. The Government decided that from the beginning of this month it would increase the fee for the desert pass from $40 to $50—an increase of 25 per cent. This issue has been one of some contention in the community for some time. I received a letter from Mr Neyman on 20 September 1990, and the part of it concerning desert passes is as follows:

> When we [he was with a friend] were at Birdsville, we met several people who had travelled from Dalhousie to Birdsville (across the Simpson). They said that there was a person at Dalhousie writing down all the registration numbers of the cars and telling those who did not have a desert pass that they had one month to get one or they would be fined $1 000.

Although Mr Neyman says $1 000, I think it is $100. He continues:

> We now ask: is that the reason the Purnie Bore to Macumba road was closed, so that the NP&WS could redirect all traffic through Dalhousie in order to check on desert passes? If so, we find that behaviour childish and despicable because the NP&WS has reduced itself to just another tax collection agency, instead of serving the public.

Mr Neyman then says that the desert pass is valid only for the year in which it is purchased. So, if I were to purchase a desert pass today it would be valid only until 31 December. I checked this with the department, and I was informed that, very generously, it would let it continue for another 12 months, but should I purchase a desert pass in August or September it would be valid only for another three months or so until the end of the year in which it was purchased. My questions are: what rush of blood caused the Government to increase the cost of this one pass, the aim of which is to attract tourism, by 25 per cent? Why are passes not valid for 12 months from the date of purchase?

The Hon. BARBARA WIESE: The questions the honourable member asks are questions that can be answered only by the Minister for Environment and Planning since it was her department which instituted these desert passes. I would have to seek information from her as to why those passes have been introduced and the arrangements for them. However, I can indicate that some of the arrangements that have recently been made by the National Parks and Wildlife Service as they relate to tour operators in particular in the Far North of the State were arrangements which caused quite considerable concern amongst members of the industry, and in fact representations were made to me on those questions.

Subsequently, I asked officers of Tourism South Australia to meet with the relevant parties, including people from the National Parks and Wildlife Service, to see whether there was some way of finding a compromise amongst the range of concerns that were being expressed by people in the industry so that a satisfactory outcome could be achieved, on the one hand in the interests of preserving the very delicate environment in which people are now being taken in quite large numbers, which of course is the National Parks and Wildlife Service's main concern, and, on the other hand, in protecting the interests of tour operators and others who are responsible for developing our tourism industry in the northern part of the State.

As I understand it, meetings have taken place and some progress has been made. However, I have not received a report on this for some time. In fact, a few days ago I asked officers in my office to seek for me an update on where those discussions are leading so that if it is necessary for me to have input I will be in a position to do so. I hope that it will not be very long now before some of the concerns that have been raised by tourism industry operators will be addressed and satisfactory solutions will be found, in the interests of all parties.

The Hon. PETER DUNN: I have a supplementary question. Will the Minister get a reply for me from the NP & WS as to why this fee has gone up by 25 per cent and why a pass is not valid for 12 months from the date of purchase?

The Hon. BARBARA WIESE: I believe that that reply would be better sought by my colleague the Minister of Local Government, who represents the Minister for Environment and Planning in this place. I am sure she will agree to seek that information for the honourable member.

NATIONAL CRIME AUTHORITY

The Hon. R.I. LUCAS: I understand that the Attorney-General has an answer to my question of 21 November about the National Crime Authority. I also understand he has an answer to the question asked by the Hon. Mr Davis on 18 October in relation to Mr Gerald Dempsey.

The Hon. C.J. SUMNER: The answer to the question asked by the Hon. Mr Lucas on 21 November is as follows: the Chief Executive Officer of my department has confirmed that we have received no further code named reports of any sort from the National Crime Authority since 5 April 1990.

The answer to the question asked by, it seems, both the Hon. Mr Davis and the Hon. Mr Lucas on 18 October regarding Mr Dempsey is as follows: the appointment of Mr Gerald Dempsey as the South Australian Member of the National Crime Authority was recommended by the Commonwealth Attorney-General, and to the Inter-Governmental Committee on the National Crime Authority, and to the State Government by the former Chairman of the National Crime Authority, Mr Peter Faris QC.

After the nomination of Mr Dempsey by Mr Faris QC, the matter of Mr Dempsey's suitability for appointment to South Australia was examined by Mr John Doyle QC, the South Australian Solicitor-General. Mr Doyle QC made inquiries as to Mr Dempsey's suitability for appointment from a number of lawyers who had worked with Mr Dempsey or who knew of his professional reputation.

Following Mr Doyle's investigations and report, the Commonwealth Attorney-General was advised on 21 December 1989 by Mr Guerin, Director of the Department of Premier

and Cabinet, on behalf of the Premier, that the South Australian Government supported Mr Dempsey's appointment to the position.

NATIONAL RAIL FREIGHT CORPORATION

The Hon. I. GILFILLAN: I seek leave to make a brief explanation before asking the Minister of Tourism, in her capacity as the Minister representing the Minister of State Development and Technology, a question relating to Rail Freight Corporation.

Leave granted.

The Hon. I. GILFILLAN: I direct the question to the Minister of Tourism because she also holds the portfolios of Consumer Affairs and Small Business, and the question of the National Rail Freight Corporation is very significant to the expansion of business in South Australia. I am sure she will be particularly concerned about the success of South Australia's or Australian National's efforts to secure the control of the National Rail Freight Corporation. South Australia has been very well placed to win the establishment of the Rail Freight Corporation, which is due to be formed, I am advised, by 1 July 1991, about six months away. The significance of having the corporation in Adelaide is especially important at this time, given the scaling down by Australian National of many existing services in South Australia.

The importance of South Australia to the national rail scene is significant because a number of technological advances have occurred in this State (we are in fact the nation's leading rail State) such as the development of five-pack container wagons, piggy-backers and the revolutionary road-railer. The establishment of Australian National in Adelaide has meant the creation of first class freight handling facilities at Dry Creek and Islington, with the hundreds of jobs involved there, and the building and staffing of a multi-storey office block at Keswick.

Not only have these developments provided jobs for South Australians but they have placed this State at the forefront of rail development in Australia. The location of the NRFC in Adelaide would see a continuation and significant expansion of this role for South Australia with major economic benefits. Securing the NRFC in Adelaide will provide many additional jobs and the construction of engineering and service facilities.

I specifically target this question at the Minister of Tourism in her role and also as she represents the Minister of State Development. I despair of directing the question to the Minister of Transport because in July this year he failed to attend the Rail 2000 conference, which was a significant national conference on rail in South Australia hosted here by Rail 2000 and other supporters of rail; nor was he at the launch of the road-railer, which was a world first in August 1990 in this State. So, it is unfortunate that we must turn away from the Minister of Transport and towards State development through the Minister of Tourism and Small Business for the energy to support Australian National's attempts to get the National Rail Freight Corporation. I ask the Minister:

1. Is she aware of any moves to establish the headquarters of the National Rail Freight Corporation interstate, in other words, in New South Wales or Victoria, our competitors, instead of in Adelaide?

2. If such a move was to eventuate, does she know what job losses this would involve for the community and what effect this would have upon the South Australian economy as a whole, because Australian National's current resources here would syphen off to the successful State?

3. What is the State Government doing to ensure that the National Rail Freight Corporation be located in Adelaide, given the significant economic, technological and employment opportunities this would bring to South Australia?

The Hon. BARBARA WIESE: I am surprised that the honourable member is not aware of the State Government's position on this issue already, because there have been numerous newspaper and other media reports of the Government's support for the rail freight initiative being located here in this State, and in fact the State Government is working very closely with Australian National in order to achieve that end result. Many people involved in Government are taking part in working to achieve that end, and I must take great exception to the remarks that have been made by the honourable member about the Minister of Transport, because he is one of the key players in this area and has worked strenuously to assist Australian National and other people within Government to achieve the goal we are all seeking.

The Premier has been personally involved in this matter and has made representations to the Federal Government on this question, as of course has the Minister of Industry, Trade and Technology. As a Government we believe that the rail freight initiative fits very well with the transport hub concept that is being developed within the South Australian Government for this State.

We believe that South Australia is ideally located to become a major transport hub in Australia, linking freight and transport modes of all kinds from all over Australia, linking ports, road transport, rail transport, and air transport. Very strong moves are being made to develop that concept. This it is not something that is just a bright idea that the Government itself is pursuing; representatives of industry from all these sectors are working with the Government in developing this concept. I know that the board and executives of Australian National have been very closely involved with it and they view the transport hub project as being a key factor in the arguments they are putting to the Federal Government that the rail freight headquarters should be located in this State.

All of these ideas mesh beautifully. If we can achieve the goal of having the rail freight headquarters located in South Australia then not only will we be in a position to preserve existing jobs but, as the honourable member has indicated, there will be the opportunity for many more jobs to be created in South Australia as a result of that concept coming to fruition. I can assure the honourable member that every possible step is being taken currently to achieve that goal. We are working against very strenuous competition from other States of Australia, which recognise the benefits of such a project taking place in their own States, so it certainly will not be an easy fight to win but we are committed to winning it and it will not be for the want of effort if by some terrible misfortune we are unsuccessful in having the rail freight headquarters located in South Australia.

The Hon. I. GILFILLAN: As a supplementary question, I congratulate the Minister on her answer. I was impressed with her awareness of it and the energy she is obviously putting into securing it. Part of my question was directed to check whether the Government, through the Minister, is aware of a particular threat from either New South Wales or Victoria. Where does she see the major competitor emerging and does she believe that we are still ahead?

The Hon. BARBARA WIESE: It is extremely difficult to know where the major competitors are but certainly the large States of New South Wales and Victoria would have

to be strong competitors and it will be a very strenuous fight.

NATIONAL CRIME AUTHORITY QUESTIONS

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

Recognising that—

1. the National Crime Authority ('NCA') has been investigating activities in South Australia since May 1986;

2. in November 1988 the NCA was given South Australian Reference No. 2 dealing exclusively with certain alleged criminal activities in South Australia including bribery, extortion, prostitution, drug cultivation, manufacture and supply, murder and attempted murder, naming 56 persons, including 25 serving police officers for further investigation;

3. the NCA opened a South Australian office in 1989; and

4. by the end of this financial year, the South Australian Government will have allocated an estimated $11.4 million to fund the NCA's operations in South Australia;

the Legislative Council—

1. expresses concern that notwithstanding the extent and cost of these NCA activities funded in South Australia by South Australian taxpayers, the corruption of former Police Drug Squad Chief Moyse remains the only major successful conviction to have been achieved as a result and that there are unresolved serious questions about the handling of a report prepared by Mr Justice Stewart, former Head of the NCA, which was highly critical of police attitudes to the investigation of alleged police corruption;

2. notes the reported intention of the new Chairman of the NCA, Mr Justice Phillips, to change the focus of the authority's operations from illegal drug activities to white collar crime and to cull 'all existing NCA inquiries which are not viable';

3. expresses concern that NCA Operations 'E', 'F', 'H', 'L' and 'O' identified by the Attorney-General in his ministerial statement of 5 April 1990 and deferred since August 1989, may be further delayed or even cancelled; and

4. requests the President of the Legislative Council to submit to the Federal Attorney-General, for transmission to the NCA, the questions in the annexed schedule requesting that answers to those questions be available for tabling in this Parliament when it resumes on 12 February 1991. Should any provisions of the National Crime Authority Act 1984 preclude answers being given to any of these questions, the Federal Attorney-General be further requested to introduce amendments to the Act to allow all questions to be answered at the earliest possible opportunity.

SCHEDULE

Questions to the NCA

1. In relation to the reference (*vide* paragraphs 12.1 and 12.2 at p. 121) in the National Crime Authority's report of July 1988 to the Government of South Australia, that 'it is the Authority's view that the allegations canvassed in this report, if true, demonstrate that an unacceptable level of unethical practice has been in existence in the South Australian Police for a considerable time'—

(a) Has the Authority completed its investigations of these allegations?

(b) If so, and without identifying individuals, what were these allegations and which ones were found to have been true?

(c) Have any individuals named in this report been investigated; if so, what was the nature of the allegations against them and what has been the outcome of the investigations?

2. Of the 56 persons identified to the South Australian Minister of Emergency Services for the purposes of South Australian Reference No. 2 granted on 24 November 1988—

(a) How many of those persons have been investigated?

(b) How many of those persons still to be investigated are serving South Australian police officers?

3. In his preliminary progress report dated 30 May 1989 to the South Australian Attorney-General giving summaries of the eight NCA operations then being conducted in South Australia, did Mr M. Le Grand make any reference to the Operation Ark investigation and, if so, in what terms?

4. Before taking up the position of Chairman of the NCA in July 1989, did Mr P. Faris QC make representations to any member or officer of the Authority requesting that a report on the Operation Ark investigation not be transmitted to the South Australian Government until he had taken over the Chairmanship and, if he did, how did he become aware of the investigation and the existence of the report, on what date did Mr Faris first make such representations, what reason did he give for them, and before his approach to the Authority had he discussed the matter with any person acting for or on behalf of the South Australian Government or the Federal Government?

5. On what date did Mr Faris QC first see a completed version of the report prepared by Mr Justice Stewart relating to the Operation Ark investigation?

6. On what date did Mr Faris QC, as Chairman of the National Crime Authority, first attend the headquarters of the Authority?

7. On what date did Mr Faris QC, as Chairman of the NCA, instruct Mr M. Le Grand not to transmit to the South Australian Government a report prepared by Mr Justice Stewart relating to the Operation Ark investigation, and what reason was Mr Le Grand given for this instruction?

8. Was the instruction to Mr Le Grand referred to in Question 7 given as a result of a properly constituted and minuted meeting of the Authority?

(a) If so, on what date was that meeting held and what were the minuted reasons for the instruction?

(b) If not, did Mr Faris otherwise seek the concurrence of all other members of the NCA for this instruction, did he receive that concurrence and, if so, on what date?

9. Did Mr Faris QC, as Chairman of the NCA, instruct that communications between the South Australian Attorney-General and the Authority should be conducted through the office of the Chairman?

(a) If so, on what date was that instruction given and what was the reason for it?

(b) Did this practice differ from that followed while Mr Justice Stewart was Chairman of the NCA and, if so, how did it differ?

10. On what date did Mr G. Cusack QC and Mr J.P. Leckie as members of the NCA first receive a copy of the Operation Ark Report prepared by His Hon. Mr Justice Stewart?

11. At how many minuted meetings of the NCA between the receipt by all Authority members of the Operation Ark Report prepared by Mr Justice Stewart, and the decision of the Authority on 16 December 1989 to reject the report, was that report considered? What were the dates of these meetings?

12. Why did Mr P. Faris QC as Chairman of the NCA not consult his predecessor, Hon. Mr Justice Stewart, before the Authority decided to reject the report prepared by His Honour relating to the Operation Ark investigation?

13. At a meeting in Melbourne with the South Australian Attorney-General on 19 July 1989, did Mr P. Faris QC or any other member or officer of the NCA advise the Attorney that Mr Justice Stewart had completed a report or documents on the Operation Ark investigation, and was the Attorney shown a copy of the report or documents or advised on the conclusions and recommendations made by Mr Justice Stewart?

14. During the discussions on 19 July did the Attorney-General ask the NCA to complete any review of the report as soon as possible to ensure any failure of administration in the South Australian Police Force could be dealt with as expeditiously as possible?

15. At a meeting in Adelaide on 1 August 1989 attended by the Premier of South Australia, the Attorney-General, Mr Faris QC and Mr Tobin of the NCA to discuss re-prioritisation of the Authority's operations in South Australia, was the Operation Ark discussed and, if so, in what terms and was there any reference to any decision by the Authority to review the report prepared by His Honour Mr Justice Stewart?

16. At a meeting on 4 August 1989, did Mr Faris QC advise the South Australian Commissioner of Police that the Authority was vetting the Operation Ark Report prepared by Mr Justice Stewart and did Mr Faris also say he expected the Stewart Report would go forward under section 59 (5) of the National Crime Authority Act 1984 with a supplementary report of the new Authority?

17. When and why did Mr Gerald Dempsey, as General Counsel for the NCA, call into question the appointment of Mr M. Le Grand as an Adelaide member of the Authority and, if Mr Dempsey tendered written advice on this matter, can it be provided for tabling in the Legislative Council?

18. Was the validity of Mr M. Le Grand's appointment as Adelaide member of the NCA subsequently supported by an opinion of Mr Ray Finkelstein QC and, if so, can this opinion be provided for tabling in the Legislative Council?

19. On what grounds did Mr P. Faris QC advise Mr M. Le Grand on 25 October 1989 that the Operation Ark Report prepared by Mr Justice Stewart might not be within the NCA's reference?

20. Did the NCA receive advice on 27 October 1989 that the report prepared by Mr Justice Stewart was within the power of the Authority; if so, can this advice be provided for tabling in the Legislative Council?

21. On 27 October 1989, did Mr Gerald Dempsey provide the first of two advices on the Operation Ark Report prepared by His Honour Mr Justice Stewart which were highly critical of that report; if so, can both advices be provided for tabling in the Legislative Council?

22. On 5 November 1989, did Mr Lenihan, Executive Officer of the NCA, produce a memorandum in response to the advices of Mr Dempsey referred to in Question 21, which concluded that it was Mr Dempsey's advice rather than the report which required justification; if so, can that memorandum be provided to the South Australian Attorney-General for tabling in the Legislative Council?

23. On 16 November 1989, did Mr Dempsey respond to the memorandum of Mr Lenihan referred to in Question 22; if so, can that response be provided for tabling in the Legislative Council?

24. Did Mr M. Le Grand prepare a written response to each of the two advices by Mr Dempsey referred to in Question 21; if so, can these responses be provided for tabling in the Legislative Council?

25. Did the NCA, under the Chairmanship of Mr P. Faris QC, threaten to seek an immediate High Court injunction to prevent Mr M. Le Grand from passing any information to the Federal Joint Parliamentary Committee on the NCA or the Intergovernmental Committee; if so, on what date was this threat made, by whom and on what basis?

26. Did the NCA, at its meeting on 16 December, receive an opinion from Mr David Smith QC on the validity of a direction from the Authority to Mr M. Le Grand not to divulge or communicate to any person outside the Authority any information acquired by him by reason of or in the course of the performance of his duties under the NCA Act; if so, can a copy of that opinion be provided for tabling in the Legislative Council?

27. Why did the July-September 1989 Operational Report of the NCA make no reference to the Operation Ark investigation?

28. Why did the NCA, at the meeting on 1 December 1989 of the Federal Joint Parliamentary Committee, provide no information about the Operation Ark investigation?

29. Apart from any of the meetings, discussions or documents referred to in the previous 28 questions, did any person acting for or on behalf of the South Australian or Federal Governments make any representations to any member or officer of the NCA in the period between May and December 1989 seeking to influence the Authority's handling of the Operation Ark Report prepared by Mr Justice Stewart and, if so, what was the nature of those representations, who made them and when?

30. In view of the comment at 3.2.1 of the Operation Ark Report prepared by Mr Justice Stewart that 'one of the matters it (the NCA) has been charged to investigate, is whether the former Chief Inspector Barry Moyse acted alone or as part of a wider corrupt group within the Drug Squad of SAPOL', has the Authority reached a conclusion on this matter and, if so, what is that conclusion?

31. What operations have been deferred, what operations will continue to be deferred and what operations will not be pursued and for what reasons?

I move this motion for four key reasons. First, we believe there is growing concern about the effectiveness of the NCA operations in South Australia. Secondly, we have noted the announced intention of the new Chairman of the NCA to change the focus of the authority's activities from drug investigation to white collar crime. Thirdly, we want to ensure the maximum effectiveness of the NCA in whatever task it is given. At the same time, we want to ensure that any outstanding investigations in South Australia are not shelved and that mechanisms are in place to deal effectively and expeditiously with official corruption, organised crime and their associated scourges. Fourthly, we want to clear up the unresolved matters relating to the Operation Ark investigation, which have clearly damaged the reputation of the NCA in South Australia.

In particular, I have included a long list of questions in my motion for the NCA to answer. They reflect to a large extent questions in a letter from the Leader of the Opposition to the Attorney-General on 29 November 1990. I have included these in the motion in the hope that, with the full support of this Chamber, the authority will be encouraged to provide full and frank answers about activities undertaken at the cost of South Australian taxpayers and reinforce any representations that may be made by the Attorney-General as chief law officer in South Australia.

There is no evidence on which the Opposition can conclude that Queensland-style corruption exists in South Australia. We do not believe that there is widespread institutionalised corruption in our Police Force or in any other agencies of Government, but if we do not have problems on the scale of some other States why is it taking so long to establish that fact beyond doubt?

If it took Mr Fitzgerald only two years to root out the evils of official corruption in Queensland, why has the NCA been active in this State for twice as long and caused more conflict and confusion than it has achieved conclusive results? In posing these questions, I do not blame any one person or agency, but we all now share the responsibility to end the conflict and confusion and get on with the task of producing some conclusive results. The opportunity to rethink the approach has been created with the announced intention of the new Chairman of the NCA, Mr Justice Phillips, to change the authority's focus.

The new emphasis will be on white collar crime rather than drug investigations. According to Mr Justice Phillips' report to the intergovernmental committee, the authority is conducting a review to identify non-viable references inquiries, although the criteria are not indicated. Such a move could have major implications for NCA operations in South Australia. Few, if any, have been or are now related to white collar crime, although, following the answer that the Attorney-General gave yesterday to questions about South Australian reference No. 2, I take it that at least at the present stage the National Crime Authority does not intend to do anything but continue with the investigations related to that reference.

To appreciate the point fully, I recall some of the history of the authority's involvement in South Australia. It goes back to 1986—almost five years. In May of that year the NCA intergovernmental committee approved a reference to be issued by the Governments of the Commonwealth, Victoria, New South Wales and South Australia. This allowed investigations which, in the main, were drug related. Amongst other things, they led to the conviction of Moyse. In July 1988, the NCA, under the chairmanship of Mr Justice Stewart, made an interim report to the South Australian Government on its investigations to that time. That report had 12 chapters. The public and this Parliament have seen only part of one of those chapters so far, but that was sufficient to cause alarm. I quote the conclusion of Mr Justice Stewart in this report:

> It is the authority's view that the allegations canvassed in this report, if true, demonstrate that an unacceptable level of unethical practice has been in existence in the SA Police for a considerable time and that without the authority's investigations these allegations might not have come to light. It seems to the authority that there has also been a lack of resolve and perhaps even a reluctance to take effective measures to enable these types of allegations to be brought to the attention of a permanent independent investigatory unit.

This conclusion continued:

> The authority, as noted in this report, is aware of poor investigations into allegations of improper conduct by South Australian police officers. These investigations did not create a positive environment to ensure that the risk of unethical practice was minimised and those responsible for corrupt activity were identified and properly dealt with.

Parliament was made aware of these conclusions of the NCA on 16 August 1988. They came in the form of ministerial statements from the Attorney-General and the Deputy Premier, who also held the Emergency Services portfolio

at that time. Both assured the Parliament that 'the Government will not shirk its duty to the community to fight organised crime and to attack corruption wherever it may be'.

Later, I will invite members to match that assurance with what Mr Justice Stewart found a year later, again identifying a lack of resolve within the Police Force to deal with alleged corruption.

Subsequent to the first NCA report on 24 November 1988 a specific South Australian reference was issued—reference No. 2—to allow further NCA investigations in South Australia. This reference dealt with a range of very serious crimes, including murder, attempted murder, drug trafficking, corruption and bribery. The reference specifically required the investigation of 56 named individuals, including 25 serving police officers, although this latter fact has become public knowledge only very recently.

While this reference is now more than two years old, on the latest information made available to this Parliament, investigations have begun in relation to only half of those named. In January 1989 a South Australian office of the NCA was opened. At the same time, Mr Mark Le Grand took up the position of an additional member of the NCA, with specific responsibility for the South Australian reference, and Mr Carl Mengler was appointed chief investigator. Both Mr Le Grand and Mr Mengler were given reasons in the periods they subsequently served with the NCA to develop serious concerns about some aspects of its work affecting South Australia.

The final link of this historical chain was the establishment in February 1989 of an Anti-Corruption Branch in the South Australian Police Department. The formation of this branch had been specifically recommended by Mr Justice Stewart in his initial report to the South Australian Government in July 1988. All of these moves received bipartisan support. Indeed, the Liberal Party had, in particular, sought the establishment of a South Australian office of the NCA before the Government finally decided to seek the authority's approval for this move.

Thus, by early 1989, the Parliament and the public were entitled to be confident that everything possible was being done to deter and detect corrupt criminal activity. However, at the very time all of these measures were finally in place, events occurred within the Police Force that ever since have been instrumental in undermining public confidence that everything possible was being done by our law enforcement and investigatory agencies to prevent corruption. On 7 February 1989 an Operation Noah exercise was undertaken. A similar exercise in 1987 had helped fill out the case against the corrupt Moyse.

On that occasion the NCA had been advised immediately of all allegations by the public of police involvement in illegal drug activities. However, in 1989, the NCA received no immediate advice that 12 allegations had been made linking South Australian police to illegal drug activities, including one new allegation involving Moyse. Nor was the Police Commissioner or the Anti-Corruption Branch advised. The NCA and the Police Commissioner did not become aware of these allegations for another month, and then only through media reports.

Given that, at that time, the NCA was still investigating whether Moyse had acted alone in his corruption, or whether other South Australian police officers had been involved with him, the authority understandably sought to make further investigations. This resulted in the preparation of a comprehensive report by Mr Justice Stewart, who was appointed inaugural Chairman of the NCA in 1984, and who signed a letter to transmit this report to the South Australian Government on 30 June 1989, his last day in office at the NCA.

Before dealing with the detail of his report and the events subsequent to its completion, it is salient to note that the South Australian Government had a number of very important reasons for being vitally interested in its preparation and recommendations. Not by any means the least of these reasons was the fact that, by this time, the South Australian Government was meeting the full cost of the Adelaide office of the NCA in which this report was prepared.

In relation to the debate which continues about the South Australian Government's right to determine whether or not this report should be made public, I quote, first, the view of the Attorney-General, who told the Legislative Council on 22 February this year:

> They [the NCA] have made the point that in the final analysis it is a report to Government and the Government could choose to release it. In other words, the decision to release or not is one for the Government to take.

This view was supported by Mr Gerald Dempsey who, as the Adelaide member of the NCA in succession to Mr Le Grand, told a public sitting of the authority on 22 March this year:

> Whether that document is published is entirely a matter for the South Australian Government.

The views of both the Attorney-General and the NCA have been repudiated by the Premier, who told the House of Assembly as recently as 21 November:

> The reason that the Government has not officially published the report is that it is not ours to publish officially; it is up to the NCA if it wants to release it.

This clear buckpassing and conflict between the Premier and the Attorney-General is perhaps most important for what it says about the apprehension that this Government holds should Mr Justice Stewart's report be made public.

The Hon. C.J. Sumner: You've got it.

The Hon. K.T. GRIFFIN: It has not been made public, has it?

The Hon. C.J. Sumner: Why don't you table it yourself?

The Hon. K.T. GRIFFIN: It is not my job to do that. The Government has tried to have it all ways in keeping the report from the public.

The Hon. C.J. Sumner: That is totally hyprocritical.

The Hon. K.T. GRIFFIN: It is not, actually. You are the Minister responsible.

The Hon. C.J. Sumner: You have got the report—you table it. You take the responsibility for smearing honest police officers. You table the report!

The Hon. K.T. GRIFFIN: I am not going to smear honest police officers.

The Hon. C.J. Sumner: No; that's why you won't table it.

The Hon. K.T. GRIFFIN: No. On 30 January this year the Attorney-General released the three pages of recommendations in the Stewart report—three pages of a 139 page report (much longer if the appendices are included). On 5 February this year, the Attorney-General told the *7.30 Report* that the Government was considering the Stewart report. He said:

> We are considering it and it has been referred to the Police Commissioner and we will be discussing that report within the Government in due course.

On 8 February, the Minister of Emergency Services told the Assembly that the Commissioner of Police was considering the future of police officers criticised in the Stewart report. The Minister finally reported back to the Assembly last month explaining that the officers so named had been found to be suitable to continue serving in the force and how the

police had responded to other recommendations in the Stewart report.

So, the Government claims to have considered and implemented some of the Stewart recommendations, yet at least that part of the report on which the recommendations are based, and which the Solicitor-General indicates can be released, has not been released. The Premier and the Minister of Emergency Services claim to have not even read the report—a report that this Government has paid for. How, then, can they therefore be satisfied that the police response has been appropriate if they are not aware of the reasons for these recommendations. I suggest that that is an extraordinary state of affairs.

In a moment, I will quote some relevant sections from the report. Before doing so, however, let me remind members of what the Government has said so far about the Stewart report. I do this because I say that the Government has deliberately attempted to misrepresent the contents of the Stewart report. On 30 January this year, the Attorney-General gave a press statement, releasing under media pressure the recommendations of Mr Justice Stewart. In that press statement he said:

> In order to bring to an end the media speculation and in order to allay public concern concerning the NCA's activities in South Australia in relation to Operation Noah, I provide the following information drawn from that document.

However, all the Attorney-General provided was one part of one paragraph from one page of the 139 page Stewart report, pointing out that no dishonesty or corruption had been involved in the failure of police to inform the NCA or the Police Commissioner about the allegations of police involvement in illegal drug activities made during Operation Noah. The Attorney-General continued this misrepresentation on the *7.30 Report* on 5 February, when he said of the Stewart document and the revised version prepared by his successor, Mr Faris, QC:

> The fact of the matter is that there is common ground; there is a difference of emphasis.

The Hon. C.J. Sumner: What is wrong with that? That is correct.

The Hon. K.T. GRIFFIN: The Attorney-General can reply in a minute. On 13 February the Attorney-General told the Legislative Council:

> In the Stewart document there was certainly criticism of certain police officers with the suggestion that their positions be reviewed, but it goes no further than that.

On the same day, the Attorney also said:

> The reality is that the Operation Noah/Operation Ark matter is a comparative sideshow as it has turned out; it is not central to the NCA's investigations in South Australia.

I assert a contrary view. This fiasco has been central to the NCA's investigations. It has undermined the authority's public credibility and reputation not only in South Australia but around the nation. The Government has attempted to confine the debate to whether the Stewart report was an official report of the NCA, and it has suggested that, because both the Faris and Stewart reports found no corruption, there is no reason for the Parliament or the public to be concerned about what the Stewart report contains.

It has done this to avoid answering some of the very serious questions which arise from the Stewart report. The Government's argument that no identifiable corruption in the Stewart report means that we should not be concerned relies on a very flimsy basis and encourages little confidence that the Government is genuine in its determination to prevent police corruption.

No corruption may have been found in the handling of those particular cases, but Mr Justice Stewart found an environment being maintained in which police corruption could be continuing, notwithstanding all the worthy words of resolve and previous actions taken to root it out. In effect, the Government has taken the attitude that, in this case, because no body has been found, there has been no murder. It is important that what is in the Stewart report be exposed so that it cannot happen again and cannot come back to haunt the Police Force.

In now going to what is in the Stewart report which has not been made public, I remind the Council of the report of Mr Justice Stewart to the Government in July 1988 and his concern about a lack of resolve to deal with police corruption. Less than a year later, Mr Justice Stewart reported in identical terms after his Operation Ark investigations. This is what Mr Justice Stewart had to say at the end of his Ark report under the heading 'A continuing lack of resolve':

> At the end of its inquiry into these matters, the authority was faced by the weight of the evidence to conclude that there still exists within SAPOL a lack of resolve amounting to a reluctance to take effective measures to enable allegations of police corruption and involvement in criminal activity to be brought to the attention of a permanent and independent investigatory unit as reported upon by the authority at paragraph 12.1 of its report of July 1988 to the Government of South Australia. The authority has further concluded that the situation referred to in paragraph 12.2 of that report still exists.

In other words, Mr Justice Stewart concluded that a year had been wasted in ensuring more effective police attitudes and procedures to root out police corruption, notwithstanding the proven and admitted serious corruption of Moyse and the other measures put in place to deter and detect corruption.

Such a conclusion only a few months before the due date of a State election would have been extremely embarrassing and damaging for the Government. For, if the Government does not bear ultimate responsibility, who does—the Commissioner? The Government will respond by claiming this report by Mr Justice Stewart was rejected by the succeeding NCA, but what the Government cannot get over is the fact that the Stewart recommendations were based in a very large measure on sworn evidence and admissions by senior police officers. Mr Justice Stewart observed in the introduction to his report:

> In compiling the report, the NCA has made extensive reference to the transcript of its hearings. It has done so in an attempt to provide an objective assessment of these events.

I now turn to some of these events: first, the failure to advise the Police Commissioner of the corruption allegations made during Operation Noah. The 12 allegations relating to South Australian police were made on 7 February 1989 but Mr Hunt did not find out about them until 9 March as a result of a radio news report he heard while driving to work. He immediately admitted his concern and embarrassment to the NCA which itself had only found out about the allegations on the same day through media reports.

The subsequent investigation by the NCA produced an extraordinary discrepancy between Mr Hunt and Assistant Commissioner Watkins as to whether Mr Hunt had been advised of the allegations at the time they were made during Operation Noah. The authority concluded on this point that one or other of Mr Hunt or Mr Watkins had been either deliberately untruthful or mistaken in his belief concerning what occurred between them. The authority lent towards one of them being mistaken. The Commissioner told the NCA that he had a great concern about not being informed. I quote the Commissioner from Mr Justice Stewart's report, as follows:

> He went on to say that he had looked at the list and seen that Moyse was mentioned in two of the complaints which, in itself, would have been enough for him to have activated some urgent ratification. He then said that in respect of all matters on the list

there was not one which he would not regard as being serious, either from the viewpoint of a complaint that needs satisfaction, or as an item of information which needs investigation. He agreed that they were serious matters whether or not in the end result there was any substance to them and stated that they needed to be clarified one way or another.

Mr Hunt further conceded:

I have grave disquiet about the fact that those matters have not passed on to the authority.

Ultimately, Mr Justice Stewart attributed the failure to inform Mr Hunt and the NCA to 'negligence, incompetence or sheer inadvertence'. The authority under Mr Justice Stewart also examined the manner in which the police investigated the corruption allegations. Mr Justice Stewart found that, in half the cases investigated, the police work had been seriously inadequate. He reserved his most serious specific criticism for the investigation of an allegation that Moyse had been involved with a former prostitute in corrupt activities. Mr Justice Stewart had observed earlier in his report that 'one of the matters it has been charged to investigate is whether the former Chief Inspector Moyse acted alone or as part of a wider corrupt group within the Drug Squad of SAPOL'.

Then, turning to the manner in which the new allegation of corruption involving Moyse had been investigated. Mr Justice Stewart said the responsible police officer had 'demonstrated quite unprofessional investigative standards.' He concluded that as follows:

Perhaps more than any other of the investigations into allegations recorded against police during the course of Operation Noah on 7 February 1989 the investigations of this allegation relating to the activities of Barry Moyse has prejudiced NCA operations within South Australia.

Of another investigation criticised by Mr Justice Stewart, Assistant Commissioner Watkins admitted the public 'could be forgiven for thinking it was Disneyland', while Mr Hunt admitted officers had followed a 'ludicrous' manner of investigating another allegation that a woman had been selling drugs to children from her home with police protection. Mr Justice Stewart concluded his review of the adequacy of the investigations, by referring to the two officers chiefly responsible as follows:

During the course of their evidence to the authority, their indifference, bordering on antipathy towards the Operation Noah complaints, became plainly apparent. Although both acknowledged that allegations of corruption against police officers were serious matters, the NCA was left with the distinct impression that these declarations were mere platitudes. Their attitudes and their actions indicated otherwise.

And, in a general conclusion about the investigations, Mr Justice Stewart found:

The conclusion to be drawn is inexorable, namely, that there was a failure to investigate these matters adequately, a failure which, in many instances, was tantamount to a failure to investigate at all, or in some instances, was a failure which has resulted in prejudice to subsequent investigations.

On 22 November, the Leader of the Opposition in the House of Assembly referred in a question to Mr Justice Stewart's view that the buck for the situation he had found stopped at the top and that the authority had noted with 'considerable disappointment' Mr Hunt's failure not to do more after the conviction of Moyse to ensure that corruption allegations were immediately brought to his attention.

Mr President, little if any of what I have referred to from the Stewart report was dealt with in the Faris report, contrary to what the Attorney-General has said about the 'common ground' between them and his assertion that there was merely a difference of emphasis. Plainly, this is untrue and misleading—an attempt to pretend that all is well within a Police Force for which the Government has ultimate responsibility when the NCA has identified very serious failures in performance. The Council is entitled to persist with questions about this until there are satisfactory answers.

The Hon. C.J. Sumner: The NCA didn't identify it.

The Hon. K.T. GRIFFIN: They did.

The Hon. C.J. Sumner: They did not.

The Hon. K.T. GRIFFIN: They did.

The Hon. C.J. Sumner: You are quite wrong.

The Hon. K.T. GRIFFIN: All right, you talk about it—

The Hon. C.J. Sumner: The Faris report, which is the NCA's official and properly minuted report, did not find those things.

The Hon. K.T. GRIFFIN: Mr Stewart did.

The Hon. C.J. Sumner: Well, why don't you tell the truth?

The Hon. K.T. GRIFFIN: I did say that.

The Hon. C.J. Sumner: The Faris report did not agree with the Stewart findings. It was highly critical of the Stewart report and the—

The Hon. K.T. GRIFFIN: I know you said there was common ground—

The Hon. C.J. Sumner: Read both sets of recommendations.

The Hon. K.T. GRIFFIN: I did—and there was merely a difference of emphasis. All I am saying is that that is misleading and untrue.

The ACTING PRESIDENT: Order!

The Hon. C.J. Sumner: Well, it is not. Read the recommendations and the main common ground was, 'Was there corruption in either of them?'

The Hon. K.T. GRIFFIN: No—

The Hon. C.J. Sumner: None. Right—common ground?

The Hon. K.T. GRIFFIN: You said 'Different emphasis', and it is plain that—

The ACTING PRESIDENT: Order! Members will direct their remarks through the Chair, and the Attorney-General will have to contain himself.

The Hon. C.J. Sumner: Well, he's not doing a very good job.

The Hon. K.T. GRIFFIN: You can respond later if you want to.

The Hon. C.J. Sumner interjecting:

The ACTING PRESIDENT: The Hon. Mr Griffin is to proceed.

The Hon. K.T. GRIFFIN: It is not a beat up. It is just dealing with the facts.

The Hon. C.J. Sumner: Well, deal with the facts.

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

The Hon. C.J. Sumner: Don't distort them.

The Hon. K.T. GRIFFIN: I am not distorting them. I am dealing with the facts.

The Hon. C.J. Sumner interjecting:

The K.T. GRIFFIN: I am not.

The Hon. C.J. Sumner interjecting:

The ACTING PRESIDENT: Order! This is not a private debate.

The Hon. C.J. Sumner: He is not prepared to agree to that because he knows it is the truth. He is not prepared to have it on the record.

The ACTING PRESIDENT: Order!

The Hon. I. GILFILLAN: On a point of order, Mr Acting President, could you please ensure that the debate is conducted through you?

The ACTING PRESIDENT: I am endeavouring to undertake that task with some difficulty. The speakers will address the Chair, and I call on the Attorney-General at least to limit his interjections.

The Hon. K.T. GRIFFIN: Thank you, Sir. Mr Justice Stewart, as an eminent judge and a respected investigator of drug allegations as a Royal Commissioner before his

NCA appointment, has had his reputation impugned in this matter. Mr Le Grand similarly has had his expertise reflected upon unfairly. He conducted most of the hearings from which Mr Justice Stewart drew the evidence for his report.

Prior to joining the NCA Mr Le Grand had worked on the Williams Royal Commission, which investigated corruption in the Federal Bureau of Narcotics, and he had also served on the 1983 Stewart Royal Commission into Drug Trafficking. Other members of the NCA at the time the Stewart report was prepared were Mr Clark of the Victorian Bar and Mr Robberds, QC, of the New South Wales Bar. We know that with the exception of Mr Clark, who was on leave at the time, all concurred with the Stewart report.

In a statement to the House of Assembly on 16 August 1988, the Deputy Premier, on behalf of the Government had described the Stewart NCA as 'clearly . . . highly qualified'. It was certainly much better qualified than its successor, the Faris NCA. The Stewart NCA had conducted 11 hearings in the Operation Ark investigation. It had taken evidence from the Commissioner of Police, the Deputy Commissioner, two Assistant Commissioners and 11 other officers. It had taken 93 exhibits and 546 pages of evidence on oath. Yet, even before he succeeded Mr Justice Stewart, Mr Faris was working to stop the Stewart report and then, without hearing any of this evidence, without consulting Mr Justice Stewart, Mr Faris, in what appeared to be his first act in office, stopped the Stewart report.

Mr Justice Stewart had signed a letter of transmittal on 30 June 1989 for the report to go to the South Australian Government. All that remained was for the report to be printed and bound in the authority's Adelaide office before going to the desk of the Attorney-General. Mr Le Grand was arranging this when he received a call from Mr Faris instructing him to stop the report. One has to ask the question: why? So far there has been no satisfactory explanation. The Government has avoided this issue by deflecting the questions of the status of the report rather than what it contains. We have heard conflicting statements from within the NCA about what happened. Mr Gerald Dempsey, as the Adelaide member of the NCA, told the public hearing of the authority on 22 March this year that:

> More hearings were held in South Australia over the last year than in the rest of the authority combined. The results of these hearings will become evidence in the series of the reports which the National Crime Authority will be furnishing the Government of South Australia within the next 12 months.

If the NCA has furnished the Government with further reports in the eight months since that statement, the Parliament is yet to be informed about them; in fact, in answer to a question today the Attorney-General indicated that since April of this year the Government had not received any code-named reports from the NCA.

Indeed, of the three NCA reports we do know about, prepared since 1988—two by Stewart and one by Faris—only the 11 page Faris report has been made public. Mr Dempsey, at his March public hearing, excused the decision not to transmit the second Stewart report by saying of the status of the report, at the time Mr Justice Stewart stood down, that at that stage the draft report had not been completed. It was completed in July. That is untrue. Mr Justice Stewart denies it and so does Mr Faris. Mr Faris stated, in a letter to the Attorney-General dated 30 January this year:

> Although prepared before 1 July 1990, the proposed Stewart report was not sent.

We have never had a satisfactory explanation for this failure to send it to the Government which paid for it. The Federal Joint Parliamentary Committee on the NCA has evidence that Mr Faris had been anxious about the contents of the Stewart report in May or June and asked Mr Le Grand to delay it until he took office in July. What right did Mr Faris have to interfere in this way, when he had not taken up his appointment, and why did he do it? I understand that Mr Le Grand received his instructions from Mr Faris to stop the report, in a telephone call on 4 July. There is no evidence that this decision was taken by a proper and minuted meeting of the authority. Mr Faris advised the Attorney-General in his letter of 30 January this year:

> The authority as newly constituted carefully considered the proposed report and decided that it should not be delivered as a report of the authority.

There is no evidence that the newly constituted authority carefully considered the Stewart report. As I have said, there was no attempt to consult Mr Justice Stewart about the new authority's apparent concerns. While Mr Dempsey, as Mr Le Grand's successor in Adelaide, publically commended Mr Le Grand's work, behind the scenes a great deal of white-anting had been going on. At the public hearing on 22 March this year Mr Dempsey said:

> It is appropriate at this public sitting to record the debt of gratitude owed by the authority to Mr Le Grand for his untiring efforts, first in the enormously difficult task of setting up the office of the NCA in South Australia and, secondly, for his dedication and unstinting labours in carrying out the duties of a member of the authority.

I contrast this public statement with the fact that Mr Dempsey, whilst acting as general counsel for the authority in the latter half of 1989, gave evidence to the Faris authority calling into question Mr Le Grand's appointment as an NCA member. Around the time of the South Australian election in 1989, there is evidence of obstacles being mounted to even considering the Stewart report. In October, Mr Faris questioned whether it was in the authority's reference and Mr Dempsey produced advice critical of it.

There is evidence of a deliberate attempt by the Faris NCA to suppress any evidence, even that the Stewart Report existed. It was not mentioned in the NCA operational report covering a summary of the authority's activities between July and September 1989. The existence even of an Operation Ark was concealed from the Federal Parliamentary Joint Committee on the NCA. The committee met on 1 December 1989, and I quote from the minutes of that meeting:

> The operation of the South Australian office was the subject of specific examination by committee members and the committee was informed about how the authority under Faris had sought to prioritise its activities in consultation with the Government.

But it was not until 12 December that the committee first heard about the Operation Ark investigation when it was revealed on the *7.30 Report*. The *7.30 Report* was also the first time the public heard about Operation Ark. This sparked feverish activity within the NCA to ensure that the lid was kept on as much as possible. On that same day, Mr Le Grand received a further instruction from Mr Faris, this time not to divulge any information about Operation Ark unless authorised to do so by the authority. This instruction included providing information to the Federal Joint Parliamentary Committee and the South Australian Attorney-General.

The pace within the NCA became frenetic. On 16 December the authority rejected the Stewart report. Why had it not done so before, if it believed the report was as poor as it subsequently asserted? By 21 December, 5 days later, the South Australian Attorney-General had the 11 page Faris report on Operation Ark. It is difficult to resist Mr Justice Stewart's summary of these events. In his letter of 8 February this year, rejecting the Faris criticisms of his report, Mr Justice Stewart observed that:

I am aware that there were media reports touching upon the matter towards the end of 1989 and I conclude that after these media reports appeared the then constituted authority substituted a report and watered down the original report almost completely.

On all the known facts, the Faris NCA prepared its 11 page report between 12 September when the *7.30 Report* revealed the existence of the Stewart report and 21 December, when the Attorney-General received the Faris report. If this is correct, it is a scandal. What right did the authority have to discard a report based on hearings, exhibits and sworn evidence?

The questions I want the NCA to answer, as posed in my motion will, if answered fully and frankly, give the authority the opportunity to set the record straight from its point of view. However, in the absence of proof to the contrary, I reject as a further untrue statement, or at least as a half truth, Mr Dempsey's assertion at the 22 March public hearing that:

Each member had to familiarise himself not only with the draft report itself, but also with the evidentiary material, including many hours of hearings, upon which the draft report was based.

There is simply no evidence that this happened. I offer, through my questions, an opportunity for the NCA to put its point of view. I also foreshadow that if the authority's answers are not forthcoming, incomplete or otherwise unsatisfactory, we will continue our public questioning and we will then more seriously consider the proposal of the Australian Democrats calling for a royal commission.

The Faris NCA has justified its rejection of the Stewart report with a series of generalisations which do not hold water. Mr Dempsey said at the public hearing on 22 March this year that many of the aspects of the draft Stewart document had been specifically rejected by the authority. This has been done without explanation. In this context, a more appropriate word than 'reject' would be 'ignore'. As a result, the authority has not until now been called upon to justify its decisions in this respect.

The criticisms by Mr Faris of the Stewart report, that it dealt unfairly with a number of police officers, that it did not make sufficient findings of fact, that its conclusions and recommendations were often not supported by fact, and that it did not appear to apply the proper standard of proof, are simply not supported by any objective reading of the Stewart report. For example, the Stewart report did not recommend that any officers be dismissed. It simply recommended that the Commissioner review their suitability, which has happened. In relation to its conclusions and recommendations, they are supported by sworn evidence and admissions by senior police from the Commissioner down, which are quoted throughout the report.

In my view the Faris report was 11 pages of panic reaction to the exposure of a document the NCA hoped would remain concealed. It is in the interests of the presently constituted authority—

The Hon. I. Gilfillan: The Faris NCA report wasn't concealed.

The Hon. K.T. GRIFFIN: Yes, it is the Stewart report which was concealed. It is in the interests of the presently constituted authority, as well as the South Australian taxpayers who paid for this exercise, to have all these unresolved matters answered. The facts are that the Stewart report identified some grave failings in police attitudes to corruption allegations and to procedures for pursuing them, which any accountable Government would admit to and be anxious to have revealed so that they are not repeated.

Because the Government has done nothing itself to bring these matters to light, but, on the contrary, has attempted to conceal them, it must accept the ultimate responsibility. Again I quote from the Dempsey's statements to the 22 March public hearing when he said:

There was no participation by or consultation with the South Australian Government or SAPOL at any stage of the process prior to the delivery of the authority's report on 21 December 1989.

This is another untrue statement. We now know that on 4 August 1989, at a meeting with Mr Faris, the Police Commissioner was told the authority was reviewing the Stewart report. Given what is disclosed in the Stewart report about Mr Hunt's reaction in evidence he gave to the NCA during the Ark investigation, we can hardly believe that this revelation simply floated past the commissioner's eyes without any further reaction from him, or that he did not tell someone in Government about it.

Further, we know that in May the Attorney-General was made aware that the Operation Ark investigation was underway. On 19 July last year, the Attorney-General then had an informal meeting with Mr Faris in Melbourne. At this meeting the Operation Ark investigation was discussed and the Attorney was informed the matter was being reviewed. The Attorney subsequently told the Legislative Council that at this meeting he told Mr Faris 'what the South Australian Government's position was in relation to the NCA investigations' (*Hansard*, 15 February 1990).

Honourable members may question the propriety of such discussions, no matter how informal, when the Attorney was at this time and by his own arrangement the subject of NCA investigations. Notwithstanding this, I contrast this desire of the Attorney on this occasion for close consultation with the NCA about its operations with his reaction to the revelation of the Stewart report. The Attorney has said he was 'formally' advised about the existence of the Stewart report on 21 December last year. Yet, it was not until 30 January this year—five weeks later, and under media pressure—that he sought a copy of that report. Ever since, he and the Government have been giving excuses for refusing to table even that part of the report that the Solicitor-General said may be tabled. Labor members of the Federal Joint Parliamentary Committee on the NCA have voted against giving Mr Justice Stewart, Mr Le Grand and others with relevant information the opportunity to give evidence to that committee.

The Federal Attorney-General has asked that committee not to pursue the matter. The present situation is unacceptable and unprecedented. The issues are far wider than the status of a particular report and its contents; they go to the very heart of probity in public administration. Was there orchestrated collusion at the Federal and State levels of Government to prevent the disclosure of the Stewart report during the 1989 election year? I suggest at the bottom line that this is a major issue which must be resolved. There are others. As I have said, the handling of the Stewart report has damaged the reputation and credibility of the NCA. The authority now wants to change its focus. But, there are uncompleted matters in South Australia. One relates to matters referred to the NCA in February 1989 by the Attorney-General. This investigation has been given priority by the NCA since July 1989—

The Hon. C.J. Sumner: It wasn't referred in 1989; it was part of the original reference, in 1988.

The Hon. K.T. GRIFFIN: Part of the original reference, but you made a specific reference—

The Hon. C.J. Sumner: I accepted some additional material in relation to it.

The Hon. K.T. GRIFFIN: That is what I am really referring to. The Attorney-General forwarded additional material to the NCA in February 1989. I am not in a position to dispute that this investigation has been given priority by

the NCA since July 1989, but it has meant that other matters have been deferred.

I refer in particular to the following operations identified by the Attorney-General in his statement to Parliament on 5 April this year:

1. An allegation of marijuana cultivation by three persons protected by four police officers—all named in South Australian reference No. 2.
2. Alleged corruption in an unnamed Government department.
3. Illegal drug dealings by four people named in South Australian reference No. 2.
4. Drug dealing by one person named in South Australian reference No. 2.
5. Improper behaviour by a police officer named in South Australian reference No. 2.

In his April statement the Attorney also indicated that further people might be charged as a result of corruption alleged within the South Australian Housing Trust. While the current status of this investigation is not known, the Minister of Housing and Construction has recently advised of a case of conspiracy between departmental officers and a supplier/contractor involving dealings worth $100 000. Obviously, investigations of this nature need to be expedited.

I further understand that an NCA report is pending on alleged corrupt practices discovered within the Prosecution Services Section of the Police Department and certain management deficiencies identified in the course of that inquiry. In this same context, the NCA operational report for the July to September period of 1989 revealed that:

> . . . some effort was being directed at finalising inquiries into allegations of corrupt charges by South Australian police officers. These latter inquiries were expected to be finalised during the December quarter.

A year later, we appear to be no further advanced with this matter, either, according to answers given by the Attorney-General in the last week of sittings and again today.

I have taken some time this afternoon to register the Opposition's serious concern about the handling of the Operation Ark matter and I have foreshadowed the Opposition's determination to pursue this matter to get to the truth. While these matters are unresolved, the credibility of our law enforcement and detection agencies remains open to question. Yesterday, the Attorney-General said that none of the investigations in South Australian reference No. 2 would be dropped by the NCA, but my concern is that important issues have been deferred and the longer they drag on it is less likely that witnesses will be found, that witnesses will be able to remember clearly the events, or that documentary evidence will be preserved.

It may be, as a suggestion, that the Anti-Corruption Branch of the Police Force can assist in the investigations not involving allegations against police officers provided it is adequately resourced. It has the responsibility for investigating corruption of public officials generally and not merely that which may exist or arise in the Police Force. It is the subject of oversight by a former Supreme Court judge.

Mr Justice Stewart, in his Operation Ark report, makes the following references to the Anti-Corruption Branch. The NCA notes, with satisfaction, that an Anti-Corruption Branch was established in March 1989 by ministerial direction under the Police Regulation Act and under the command of a resourceful and experienced officer in charge, Commander Bruce Gamble. At the same time the NCA recommended that the branch be placed on a firmer footing with more resources and greater independence.

The Opposition would support such a move with a view that, in time, this branch would undertake investigations, other than those related to white collar crime, previously undertaken by the NCA. It may be possible, after completion of the investigations into South Australian reference No. 2, to re-allocate some of the budget provision for the NCA to better resource the Anti-Corruption Branch if the Government can obtain agreement with the NCA in the light of the new tasks the authority wishes to pursue under the new chairman.

The Opposition believes that the matters raised today are essential to putting the investigation of serious criminal activity in South Australia under more credible and expeditious procedures. We also seek to clarify, once and for all, unresolved questions relating to previous investigations. For these reasons, I commend my motion to the Council.

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

NATIONAL CRIME AUTHORITY ROYAL COMMISSION

The Hon. I. GILFILLAN: I move:

1. That in the opinion of this House a royal commission be established to inquire into and report on—
   (a) the reasons, justification and circumstances which led to the suppression or non-publication of the document known as the 'Stewart report'.
   (b) the resignation of South Australian National Crime Authority member, Mr Mark Le Grand.
   (c) the circumstances which led to the resignation of South Australian National Crime Authority Chief Investigator, Mr Carl Mengler.
   (d) the conduct and decisions of the members of the National Crime Authority during the period of its presence in South Australia.
2. That a message be sent to the House of Assembly transmitting this resolution and requesting its concurrence thereto.

Mr President, in speaking to the notice of motion for the establishment of a royal commission I believe it is necessary for me to outline some of the background which has led me to this point. The call for a royal commission is not taken lightly, but I believe it is now the only option left open to the State Government in satisfying the doubts and concerns amongst the community about the operations of the National Crime Authority in South Australia. Unless a full and open inquiry is conducted the questions, allegations, rumour and innuendo which are now associated with the authority in this State, will linger and hang like a millstone around the necks of the NCA, the Government and our Police Force.

In justifying my call for a royal commission it is appropriate to review the circumstances which I believe vindicate such a move. On 30 June 1989, the then head of the National Crime Authority, Mr Justice Stewart, signed a letter of transmittal to the Attorney-General of South Australia, Mr Sumner, informing him of the forwarding of an interim report prepared by the NCA relating to a number of investigations undertaken by the authority in this State.

The investigations were in response to the issuing of an instruction to the authority seven months earlier by the Deputy Premier and former Emergency Services Minister in South Australia, Dr Hopgood, pursuant to section 14 (1) of the National Crime Authority (State Provisions) Act 1984. The terms of reference for the investigation in South Australia, as determined by Dr Hopgood, covered, amongst others:

> . . . bribery or corruption of, or by, police officers and other officers of the State of South Australia . . . the cultivation, manufacture, preparation or supply of drugs of addiction, prohibited drugs or other narcotic substances . . .

The purpose of the investigation was to '... ascertain whether any or what relevant offences ... have been or are being committed against the laws of the State of South Australia ..., to ... identify the offender or offenders ... and to ... furnish that evidence to the Attorney-General of the State of South Australia or to the relevant law enforcement agency for the prosecution of those offences'. The 139 page report detailing the NCA's investigations in accordance with the South Australian Government's request became known as the Stewart report.

For reasons yet to be fully explained by anyone, the Stewart report was not seen by the Attorney-General until January 1990, almost seven months after it was originally prepared by Justice Stewart and, according to comments in the South Australian Parliament in November 1990, the Stewart report had not been read by the Premier, Mr Bannon or the Minister of Police, Mr Klunder. On 2 July 1989, Melbourne lawyer Mr Peter Faris QC took over the position previously occupied by Justice Stewart and apparently intercepted Justice Stewart's letter of transmittal to the Attorney-General along with the Stewart report.

Mr Faris disagreed with the contents of the report, which has been suppressed since that time, and undertook to compile a new report covering the same investigations, subsequently presented to the Attorney-General as the official report of the NCA. This report became known as the Faris report and, unlike the original Stewart report of 139 pages, ran for just 11 pages.

I have in my possession a copy of the suppressed Stewart report and having read it now believe it forms the basis for my call for a royal commission. The Stewart report is comprehensive, authoritative and professional in its method of investigating allegations of corruption against members of the South Australian Police Force. It raises serious questions, makes sweeping recommendations and should be accepted and acted on by the State Government. The evidence to date is that it has not been accepted or acted upon by the State Government.

Its acceptance by the Government has been only to suppress it and its recommendations have received lip-service treatment by both Government and police. The embracing of the Faris report by the Government serves only to heighten public suspicion of possible Government involvement and complicity stemming from a spreading web of allegations.

I believe there are serious questions over the operations of the NCA in South Australia under Mr Faris, along with doubts over the effectiveness of a number of senior South Australian Police Officers, their departments and methods of investigation, as referred to in the Stewart report. I believe that statements made on numerous occasions by the Attorney-General supporting the continued suppression of the entire Stewart report on the grounds that publication could unfairly harm certain individual reputations is not a satisfactory or adequate reason.

The Stewart report results from allegations of alleged police involvement in the drug industry in South Australia, made during the Operation Noah drug phone-in on Tuesday 7 February 1989. The operation took 989 calls from members of the public relating to drug trafficking or alleged drug trafficking with 13 calls relating to allegations made against members of the Police Force. One of these allegations was made against a member of the New South Wales Police Force; the remaining 12 were against South Australian officers.

The officer in charge of the operation was Chief Inspector David Eason, the head of the Drug Squad of the South Australian Police (SAPOL). Chief Inspector Eason was personally responsible for handling any allegations of police involvement in drugs and during Operation Noah it was Chief Inspector Eason who compiled all computer records on allegations made against police officers. Both the Stewart and Faris reports found serious problems relating to the compilation of those records, and according to Stewart many questions still remain unanswered as a result.

For instance, Chief Inspector Eason told Justice Stewart that he personally keyed into the Noah computer all 13 allegations made against police officers on the day of the operation. Yet when the official report to go to the Federal Police, based on figures from Chief Inspector Eason was compiled, it showed that just one allegation had been made against police and that involved a member of the New South Wales Police Force.

News of the single allegation was also presented to Commissioner David Hunt, and it was not until more than a month later that, according to evidence in the Stewart report, the Commissioner and the NCA knew of other allegations against other police officers. Even then Chief Inspector Eason, at a media conference, only acknowledged five allegations and claimed they were very minor. The Stewart report noted that '... the authority is concerned about the role played by [Chief Inspector] Eason in providing false and misleading statistics ... when he clearly knew the true position ... Yet the Faris report views Eason's role differently claiming that ... based on the standard of the balance of probabilities ... no inference can be drawn that Superintendent Eason wilfully misled ...' Superintendent Eason, as he is now, has been promoted from his position as Chief Inspector since the time of Operation Noah.

The question arises as to how Mr Faris, who did not conduct a separate investigation but simply used the transcripts of the Stewart investigation, was able to arrive at such a different conclusion over the role of Eason. Yet the Faris report is virtually apologetic for Eason by claiming that '... it is quite possible ... that Superintendent Eason merely did not make the connection in his mind between the computer figures and the knowledge which he personally had of the 13 complaints'.

In relation to the media conference called by Eason on Wednesday 8 March 1989, the Faris report does not even consider Eason's public comment that the allegations against police were very minor. In dealing with the wide discrepancy between Eason's media conference claim of only five allegations when he knew there were at least 12, the Faris report explains it by stating '... The figure of five matters as currently under investigation would seem to be correct as at 8 March 1989, certain other matters having already been investigated, at least in a preliminary way'.

This is not the view of Stewart, who questioned Eason and stated in the report, in fact '... the total number of allegations was 13 and, as canvassed later, few, if any, could properly be described as very minor ...' The Stewart report spends a good deal of its time examining the failure of police to inform the NCA of allegations of police corruption. It notes that it was not invited to take part in Operation Noah, despite the fact that in previous Noah operations there had always been a substantial number of police corruption allegations and one of the prime reasons for the establishment of an NCA office in South Australia was to combat corruption.

A letter to the NCA dated October 1988 and written by Attorney-General Chris Sumner had stated:

> ... the establishment of a National Crime Authority office in South Australia would be an excellent opportunity for a truly cooperative and coordinated effort by law enforcement agencies to act together to combat corruption.

In doing so the Attorney added that:

. . . a high level of interaction and cooperation with the national Crime Authority is the most effective and efficient way to develop an anti-corruption strategy and structure.

Yet SAPOL did not at any time attempt to contact the NCA over allegations of police corruption and left it to the media to inform the NCA of the situation.

The Stewart report states that the authority '. . . established a close liaison with the . . . Anti Corruption Branch (ACB) . . from the time of the authority's establishment'. In addition, Stewart claims the authority, in a spirit of cooperation, staffed half of its investigative team and its entire surveillance unit with members of SAPOL. Stewart also made extensive mention in his report of other reasons for the NCA's presence in South Australia, including whether or not former Drug Squad head, Barry Moyse, had '. . acted alone or as part of a wider corrupt group within the Drug Squad of SAPOL . .' allegations made by journalist Chris Masters on the *Page One* television program, the *Advertiser* newspapers Mr X stories and allegations made in Parliament. Stewart wrote:

. . . viewed against the whole . . .the NCA considered itself forced . . to inquire fully and vigorously into why information was withheld . .

and

. . . in the authority's view this activity could have left few informed people in South Australia, let alone interested parties such as members of SAPOL, in any doubt as to the reasons for and the functions of the NCA in South Australia, pursuant to South Australian reference No. 2 . . .

Faris deals with the issue of 'failure to inform' by stating in his report:

. . . there was no obligation upon SAPOL to inform the NCA of allegations against police officers who were subject to the NCA's reference . . .

and therefore:

. . . the authority . . . finds that there was no dishonesty or corruption in the failure of senior officers of SAPOL to inform the NCA or the Commissioner of the South Australian Police of the Operation Noah allegations.

It is clear from the depth of investigation carried out by Justice Stewart that there was a serious problem among senior police officers when it came to informing both the Commissioner and the NCA about allegations made against police. In every aspect of the investigation Stewart found that senior officers, including Superintendent Eason, Detective Chief Superintendent Graham Edwards, Superintendent Neville Collins and Assistant Commissioner Colin Watkins, failed to understand the procedures by which they operated. Each seemed to believe that the process of dealing with allegations against fellow officers was the responsibility of another and did little to implement and carry out any form of serious investigation into the allegations.

At no time did any senior officer within SAPOL, with the exception of the Commissioner, inform any member of the NCA about any matters relating to the allegations. None of the officers involved in dealing with the allegations considered them to be serious and they virtually dismissed them as insignificant in number, although, as Justice Stewart found, 13 allegations of alleged police corruption from one operation accounted for between 30 to 40 per cent of all allegations made against SAPOL in a year. He therefore concluded that the number of allegations could scarcely be dismissed by senior officers as insignificant and minor.

Commissioner Hunt told the Stewart investigation that he felt certain that he was getting full cooperation from his officers in allegations against police but had since become aware of some '. . . obvious glaring discrepancies . . . in what I had expectations of . . .' The Commissioner said that he was trying to determine whether all procedures and systems had been complied with by his senior officers and, as Stewart wrote in the report:

. . . the [the Commissioner] said it was obvious from some of the material that he had found at that time that this had not been the case.

The depth of concern by the Commissioner about the failure to inform both himself and the NCA about the full extent of allegations against police can be gleaned from pages 33-34 of the Stewart report, which I now read:

All Serious Matters

3.75 The authority then sought some assistance from the Commissioner in assessing Mr Eason's performance in not apprising him of the complaints against police. The Commissioner indicated that he had a great concern about that non-disclosure. He went on to say that he had looked at the list and seen that Moyse was mentioned in two of the complaints which, in itself, would have been enough for him to have activated some urgent notification. He then said that, in respect of all matters on the list, there was not one which he would not regard as being serious, either from the viewpoint of a complaint that needs satisfaction, or an item of information which needs investigation. He agreed that they were serious matters whether or not in the end result there was any substance to them and stated that they needed to be clarified one way or another (p. 317).

3.76 The Commissioner said he was unshaken on the fact that he was advised by one officer that there was only one complaint against a police officer in Operation Noah and strongly thought that it was Eason although he subsequently qualified that to the extent that it may have been Edwards (p. 318).

Commissioner Advised of the Last Allegation

3.77 The Commissioner was shown the 12 information reports which had been produced by SAPOL and was taken to the noted times that those reports were received during the course of 7 February. Those times have been tabulated thus:

Authority Exhibit No.	Time
10	4.28 p.m.
11	4.36 p.m.
12	5.51 p.m.
13	5.13 p.m.
14	5.35 p.m.
15	5.19 p.m.
16	5.24 p.m.
17	5.10 p.m.
18	5.07 p.m.
19	5.44 p.m.
20	6.07 p.m.
21	6.12 p.m.

3.78 The Commissioner was taken to exhibit 21 which detailed the allegation against the Gosford Drug Squad in New South Wales, this being the only report he said he received from Eason or Edwards prior to the media disclosures on 9 March. He was asked to note that the time recorded for receipt of that information, namely 6.12 p.m., indicated that it was the last one received. He was reminded that he had been told of this matter in the context of his inquiry, either during the afternoon of Operation Noah, or the following day, as to whether there had been any allegations against police officers.

He reaffirmed that this was the case and acknowledged that regardless of whether he had been given this information by Chief Superintendent Edwards or Superintendent Eason, they should have been in a position to advise him about all of the complaints against police officers received during Operation Noah, as these had occurred prior to receipt of the allegation against the Gosford Drug Squad (pp. 319-320).

3.79 The Commissioner said that he was concerned, in particular, if he had not been told because of an attitude that none of the allegations were of any consequence, an attitude which seemed to be indicated by excerpts from the transcript which had been read to him by the authority. He said he would like to ask Mr Watkins 'did you peruse them yourself, or did you accept the view of what had been told to you [by Messrs Eason and Edwards]?' (p. 321).

'Grave disquiet that the NCA was not advised'

3.80 Upon this aspect of his evidence the Commissioner concluded: '. . . I must say that speaking for myself I have

grave disquiet about the fact that these matters were not passed onto the authority'. (p. 346).

In addition, the conclusions reached by Stewart can be seen on page 41 of the report, which has a subheading entitled 'Negligence, Incompetence, or Sheer Inadvertence' and a one-line sentence which reads, 'In this regard, the facts speak for themselves.'

Stewart examined in detail the investigative procedure of police dealing with a number of the allegations brought against police from Operation Noah. More than 50 pages of the report demonstrate the inadequacy of the methods used by police, problems of attitude and a lack of professionalism. The feeling of Stewart is best demonstrated by the publication of page 46 of his report entitled 'The Failure to Investigate Adequately', as follows:

The Attitudinal Dichotomy

4.2 As the authority pursued this inquiry, it became very clear that there was a stark dichotomy between the declared attitude of the Commissioner, on the one hand, and that of many of the investigators initially tasked with the responsibility of pursuing these matters, on the other. Perhaps the two attitudes are summed up in short compass in two polar comments extracted from the evidence. The first is a comment by the Commissioner of Police recorded at p. 317 of the transcript that, in respect of the Operation Noah allegations, 'there is not one there that I would not regard as being serious'. The second is an observation by Snr Sgt P.C. Phillips of the IIB recorded at p. 1244 of the transcript that all the Operation Noah allegations against police were 'treated as rubbish'.

4.3 The review undertaken by the NCA in this matter revealed entrenched attitudes within SAPOL which, despite the public declarations of the Commissioner, were not often shared at the workface. If actions speak louder than words, and they usually do, then a study of the facts surrounding the investigation of the Operation Noah allegations against police, both before and after the intervention of the NCA, is a revealing, if depressing, exercise.

4.4 The authority canvassed the particular complaints with a selection of very senior officers and investigating officers of SAPOL and reviewed with them the investigative treatment they received. In undertaking this exercise, the NCA was conscious of the limits of its powers and the pressures of other business upon it. The exercise had to be sufficiently comprehensive, but not exhaustive, so that valid conclusions could be drawn and appropriate recommendations made. Thus, not all matters were scrutinised equally.

I emphasise that the details surrounding the investigations are such that, in my view and that of the Australian Democrats, and in line with precautions urged by Justice Stewart himself, it is not considered necessary to publish individual investigations because of potential damage to named individuals or to expose certain police and details relating to current investigations. However, the methods used in many instances to investigate cases have been severely criticised by Justice Stewart, examples of which are listed below.

1. In dealing with an allegation of police involvement in a suburban drug trade, the case was assigned to the local station where the alleged police involvement emanated.

2. Police assigned to investigate the alleged growing of marijuana in a regional quarry complex failed to find the crop after admitting they only looked in the quarry sites they could see from the road.

3. Investigating officers never bothered to check if the officer from a two-person country station allegedly involved in the local drug trade and named by an informant actually existed.

4. After receiving information about police involvement in a residential drug trade and raiding the suspected premises and finding a large quantity of drugs, no steps were ever taken to investigate the alleged police involvement.

5. A senior officer wrote a report stating that an allegation of police involvement in drugs could not be substantiated; however, inquiries revealed that no investigation had ever been undertaken.

6. The admission by a senior police officer, given the responsibility of investigating police corruption, that he treated the Operation Noah complaints against police 'as rubbish' before any investigations were undertaken.

Yet, the Faris report fails to examine any of the allegations made against police, despite having access to all the investigative material. Mr Faris, in his 11 page report, does not include a single allegation, does not examine a single case and does not include any details relating to cases, yet claims no dishonesty or corruption among police. while the Stewart report does not lay claim to any substantive evidence of widespread corruption among police, it does investigate the allegations, in accordance with its reference—Faris does not. As the so-called official report to Government, the non-inclusion of any details surrounding allegations against police can only be seriously questioned.

The final three pages of the 139 page Stewart report lists 17 recommendations that it believes must be acted on. Faris has dealt with some in his report but by no means all, and recommendations 15, 16 and 17 have been ignored by Faris. In the light of the seriousness of these recommendations it is pertinent to list Stewart's recommendations once again, as follows:

RECOMMENDATIONS

1. That regulations be promulgated pursuant to s. 22 of the Police Regulation Act 1952 (the Police Act) to require the Commissioner, and members of the South Australian Police Force (SAPOL), through the Commissioner, to disclose material to the National Crime Authority (the authority) relevant to a matter referred to the authority for investigation pursuant to a notice issued under s. 5 (1) of the National Crime Authority (State Provisions) Act 1984.

2. That the Police (Complaints and Disciplinary Proceedings) Act (the Police Complaints Act) be amended to provide that all complaints against police within the meaning of s. 16 of that Act relating to a matter involving corruption shall be referred to the Anti-Corruption Branch (ACB) without prior notification to the Police Complaints Authority (PCA) of such complaint and suspending the requirement to report to the PCA until such time as the investigation of that complaint has been completed by the ACB or at the expiration of 12 months, whichever is the earlier.

3. That there be inserted into the Police Complaints Act a definition covering the meaning of the word 'corruption' by reference to categories of conduct involved which conduct should include serious criminal conduct (any offence punishable by imprisonment for five years or more) and abuse of power for reward.

4. That the Police Complaints Act be amended to provide that the officer-in-charge of the Internal Investigations Branch (IIB) report to and take directions from the Assistant Commissioner (Personnel) in respect of day-to-day control of investigations, subject to ultimate supervision by, and accountability to, the Commissioner and the PCA.

5. That the Commissioner of Police be given a direction by the Minister under the Police Act requiring the Commissioner to issue general orders requiring all police officers to bring immediately and directly to his attention by report any allegations or knowledge of police involvement in serious criminal conduct or currupt practices coming to that person's attention, whether by complaint laid by a member of the public or otherwise.

6. That the Commissioner of Police be given a direction by the Minister under the Police Act that complaints against police which involve allegations of serious criminal conduct or corruption are not to be referred for investigation to a police station or police squad or other police area or region for investigation where, on the face of the allegation or complaint, that station, squad, area or region may have any involvement in the matter the subject of the complaint.

7. That the Commissioner of Police be given a direction by the Minister under the Police Act that allegations involving corruption or serious criminal activity against police shall be investigated by a commissioned officer of SAPOL. Further, that the person allocated to that task shall not in turn delegate that task but if, for any reason, that person is unable to attend to the task within a reasonable period he/she shall so inform the officer-in-charge of the IIB or the ACB who must deal with the matter within the resources of the IIB or the ACB or allocate the matter to another commissioned officer.

8. That the Commissioner of Police be given a direction by the Minister under the Police Act that each member of the SAPOL

Surveillance Unit be required to sign a declaration that he/she will perform duties as directed, regardless of whether the subject of the surveillance is a member of the Police Force or otherwise and, if the member refuses so to do, the member should immediately be transferred out of the Surveillance Unit.

9. That the ACB be reconstituted to ensure its independence to pursue, without interference, investigations into corruption within SAPOL and to enable unrestricted liaison with the NCA in respect of such investigations by providing that the operations of the branch be regularly reviewed but, in any event, not less than monthly by either the Chief Executive Officer of the Attorney-General's Department or the Crown Prosecutor. This is a more particular restatement of the authority's recommendation contained at paragraph 12.9 in its July 1988 report on South Australian reference No. 1.

10. That the workload, priorities, and investigative practices of the ACB and liaison with other authorities should not be influenced by any police functional command, other than the Commissioner of Police. In this regard, the ACB should be a completely separate function under the command of an Assistant Commissioner of Police, reporting directly to the Commissioner. Matters falling within the charter of the ACB should be reported directly to the branch, not through any other command.

11. That the investigators of the ACB should be dedicated to that branch for a period of three years and not simply seconded from other commands in SAPOL, in particular, that the ACB should not be reliant solely upon the crime command for its investigators.

12. That the ACB should be able solely to select personnel and create selection criteria for the attachment of investigators.

13. That the ACB have available to it the facility to second experts for specific purposes from other departments, for example, investigative accountants, lawyers, etc.

14. That the ACB be sufficiently resourced to enable it to carry out the tasks allocated to it, in particular, access to its own mobile and electronic surveillance facilities.

15. That the Commissioner of Police be requested to undertake an immediate review of the suitability of officer 'A' to serve the Drug Squad in the light of the matters canvassed in this report.

16. That the Commissioner of Police be requested to undertake an immediate review of the suitability of officer 'B' to serve as a member of the IIB in the light of the matters canvassed in this report.

17. That the Commissioner of Police be requested to undertake an immediate review of the suitability of officer 'C' to serve as a member of the IIB in the light of matters canvassed in this report.

N.B.: The names and ranks of officers involved have been deleted in line with precautions suggested by Justice Stewart.

According to a letter dated November 1990, from Commissioner Hunt to Police Minister Klunder, a new police committee has been established to deal with the recommendations of both Faris and Stewart. Commissioner Hunt makes reference to recommendations 15, 16 and 17 of the Stewart report, stating they were '... referred to the Assistant Commissioner (Personnel) for assessment'.

Page 7 of the accompanying report by the Commissioner states that a review of Stewart's recommendations 15, 16 and 17, which dealt with the suitability of three senior officers to hold their positions, found that they were suitable, despite the evidence contained in Stewart's report. In fact, one of the named officers, whom Stewart found to be totally incapable of dealing effectively with his assigned position, has since been promoted!

Throughout the growing debate on the role of the NCA in South Australia and the controversy surrounding the suppression of the Stewart report, the Government has maintained that it is satisfied with the findings of Faris. It is important to note that the Stewart report was due for release approximately two months before the 1989 State election. An unexplained aspect of the controversy between the suppression of the Stewart report and the acceptance of the Faris report has been Premier Bannon, Police Minister John Klunder and Attorney-General Chris Sumner's staunch defence of Faris over Stewart. Yet, in State Parliament on Wednesday 21 November this year, the Premier admitted that he had not read the Stewart report—a document that he maintains must remain suppressed. Even more surprising is that his own Police Minister, John Klunder, the man often at the centre of the parliamentary debate on the suppression of the report, also admitted in Parliament that he had not read the Stewart report. It appears that only Attorney-General Chris Sumner has seen the report after making a special request for it earlier this year to the NCA. Mr Sumner, while arguing for its suppression, is at least in a position to debate the issue, having read it, but that cannot be said of the Premier and his Police Minister.

There is one major question which I believe must be answered by a Royal Commission: why Faris chose to suppress what can only be termed a thorough and comprehensive report by the man he replaced and what factors were involved in that decision. Why has the State Government refused to acknowledge the work of Stewart and his report, while at the same time claiming to have acted on many of his recommendations? Is the Government satisfied with the performance of its senior police officers and the handling of allegations of corruption made against its officers? Stewart implies in his report that his investigation did not have the power of a Royal Commission, stating:

> ... the NCA has been inhibited in the extent to which these matters could be pursued. The Authority is very mindful that it is not a Royal Commission and only has a function in respect of relevant criminal activities as notified to it ...

I ask: Is a royal commission then the obvious next step? What of the NCA and its operations in South Australia? The Attorney-General has said in Parliament that it is now obvious to everyone that it (the NCA) has (or had, as he quoted at the time) serious internal problems; in what form should it continue in this State? Because of the secrecy restaints within the current NCA Act, the federal joint parliamentary committee is unable to properly investigate all aspects.

The intergovernmental committee is not appropriate for such an investigation and, in the absence of an Independent Commission Against Corruption, such as exists in New South Wales and has been pushed for in South Australia by myself and the Democrats, it is therefore essential that a Royal Commission be established. Such a commission must have the power to inquire into and investigate circumstances surrounding the presentation and handling of reports into Operation Ark and the extraordinary circumstances surrounding the replacement of authority member Mark Le Grand by Gerald Dempsey and the departure of former Chief Investigator, Carl Mengler.

In conclusion, with respect, I recognise the contribution made to this debate just previously by the Hon. Mr Griffin in two areas: a motion that he moved for certain questions to be answered and for certain exemptions from the secrecy provisions to be applied to those officers or ex-officers of the NCA who would be restricted by it. I refer also to his motion that certain members be called before the Bar of the Legislative Council. I notice that he intends to continue debate on that matter.

I repeat that, on reflection, I remain convinced that, bearing in mind all the circumstances, a Royal Commission appears to me to be the only, and certainly the most appropriate, venue to settle people's minds. I urge the Government to consider it seriously. I consider that the terms of reference can be tight; extensive investigation is not required. The major question is very simply asked, and I consider not only that it would set the public's mind and Parliament's mind at rest but also that it would clear the Government of any embarrassment that might pertain through the non-action of investigating the questions that were raised.

So, I urge members to seriously consider the motion for a Royal Commission. The terms of reference are spelt out in the Notice Paper. I will not read through them again,

but I think it is an essential step on behalf of the people of South Australia. Indeed, it is in the interests of justice and the continued confidence of the people of South Australia in the NCA.

The Hon. C.J. SUMNER (Attorney-General): The Government opposes this motion. It is, to say the least, extraordinary that this amount of time is being spent on an issue where there is agreement between the two so-called documents or reports that there was no corruption in the South Australian Police Force in relation to the reporting of the Operation Noah matters.

I would have thought that should be a matter of some support by members opposite. The common ground, which the Hon. Mr Griffin was reluctant to acknowledge, is simply that there was no finding of corruption by Justice Stewart, nor any finding of corruption by Mr Faris. So, I think that needs to be stated again and again, because what we are getting is a whole parade of allegations and suggestions about what happened, when I have explained at length the situation with respect to the Stewart document and the Faris response to it. Faris, as is now obvious, reviewed the Stewart matter and Faris sent his report to the—

The Hon. I. Gilfillan: Was Faris's brief just to review the Stewart report?

The Hon. C.J. SUMNER: No, I am saying Faris reviewed the Stewart report, at his own initiative, when he became Chairman of the National Crime Authority. All that is on the record. There is nothing new about that.

The Hon. I. Gilfillan: Why did he do it?

The Hon. C.J. SUMNER: Well, he did it; that is on the public record as well.

The Hon. I. Gilfillan: We know he did it. We want to know why.

The Hon. C.J. SUMNER: I know. That is on the public record. It is in the letters that have been tabled in the Parliament as to why he reviewed the Stewart document. It is on the record. Read the letters I have tabled. Read Mr Faris's letter, you will see why he reviewed it. He reviewed it because he did not agree with it. He thought it was unfair to some of the police officers in there. He did not agree with its conclusions.

The Hon. I. Gilfillan: I suspect that he illegally intercepted the process of the NCA.

The Hon. C.J. SUMNER: It seems common ground that there was no minuted approval of the Stewart document by the NCA. That evidence has been given to the Joint Parliamentary Committee, about which the honourable member should be aware.

It is quite a serious allegation to suggest that Faris illegally intercepted the report, particularly in the light of the knowledge, according to the evidence given to the Joint Parliamentary Committee, that there was no minuted approval by the National Crime Authority of the Stewart document. What we know is that the Faris authority decided to review the Stewart document. As far as the Government is concerned, the Faris authority produced its official report. When the honourable member said that the Government had put up a staunch defence of Faris over Stewart, that is not what we have been saying. What we have been saying is that we deal with the authority as it is constituted. Surely, that is not an unreasonable position to adopt.

The Hon. I. Gilfillan: But you have been dealing with the Stewart report.

The Hon. C.J. SUMNER: We didn't get the Stewart document. We got the Stewart document as a document subsequently, which the National Crime Authority believed ought not to be tabled. While they said it was a matter for Government, in their view, Mr Faris believed that it would be unfair to table the Stewart document. When you say that there has been a staunch defence of Faris over Stewart, that is not the position that we have taken in relation to the matter. The position we have taken is that we have had to deal with the authority as properly constituted at the time that the report was transmitted. At the time the report was transmitted, it was the Faris authority, and we got that report.

I do not know what else a Government is supposed to do. Obviously, within the authority there was a difference of view and the findings of Justice Stewart were reviewed by Mr Faris. Why Faris chose to do that is outlined in the correspondence tabled in the Parliament: because he disagreed with the Stewart findings.

The Hon. I. Gilfillan: You tabled a letter in which Mr Justice Stewart said it was a report.

The Hon. C.J. SUMNER: I know Justice Stewart said it was a report. It is like the cat chasing its tail. Justice Stewart says it was a report, signed—at least with a letter of transmission signed—and Faris says it was a document that had not been completed as a report because there was no duly minuted meeting of the National Crime Authority to adopt it as its report.

The Hon. I. Gilfillan: You disagreed with Justice Stewart?

The Hon. C.J. SUMNER: I don't disagree. I, frankly, can only go on what is before me: that Justice Stewart says it was a report; Mr Faris says it wasn't a report. He says it was a document that had not yet been consecrated in a report.

The Hon. I. Gilfillan: He accused Justice Stewart of lying.

The Hon. C.J. SUMNER: We do know that there was a letter of transmittal signed as well. What that has got to do with anything, frankly, I do not know. Why an enormous fuss is being created about that, I do not know. Where does it get us? Mr Faris decided to review Stewart. It is as simple as that, as far as I am aware.

The Hon. I. Gilfillan: If Faris had wanted to review the Stewart report it could have done so after you had had it, but he stopped it.

The Hon. C.J. SUMNER: He stopped it, that's right. Mr Faris stopped it because he did not agree with its findings and he did not want the report to proceed, as I understand it, from what has been publicly said. He did not agree with its findings. So, he reviewed the matters and produced his own report, which was the official report. That is clear. What is the Government supposed to do about it? We have taken as much action as we possibly can to resolve the matters. There was a difference of opinion. That is what it boils down to. The real question is: was there any improper behaviour by Government which influenced Mr Faris in reviewing the Stewart document because we weren't happy with it?

I have said in this Council, and I will say it again: that suggestion, that innuendo which runs through this argument, is just untrue. The Government had no role in stopping the Stewart document. That was a decision taken by Mr Faris. We heard of the review of the Stewart matter, document, report, whatever it is, subsequently. If honourable members think that is the case, that the Government has somehow or other got to Mr Faris to fix the Stewart report, then let them come out and say it. They will be wrong. We could also test it in the courts, if they like.

The Hon. I. Gilfillan: Test it in a royal commission.

The Hon. C.J. SUMNER: It would be easier to test it in the courts. You could go outside now, if that is what you think, and make that accusation.

The Hon. I. Gilfillan: I could have made it, but I did not. The fact still remains that there is no clear indication why Faris intervened in this way.

The Hon. C.J. SUMNER: As far as I know, he did it because he disagreed with it.

The Hon. I. Gilfillan: It remains a very perplexing question.

The Hon. C.J. SUMNER: But does it require a royal commission? Where does it get us? They are both retired. They are not in the organisation any more. You have got the Stewart report and you have quoted great slabs out of it. The Hon. Mr Griffin has got the Stewart report and he has quoted great slabs out of it. It was made available to the media in March of this year. That is how long it has been around. How the question of why Mr Faris decided to review the Stewart document all of a sudden ends up being a major issue that requires a royal commission, I do not know.

The Hon. I. Gilfillan: Because there is no other way of getting an answer.

The Hon. C.J. SUMNER: Why is an answer so important?

The Hon. I. Gilfillan: Confidence in the head of the NCA.

The Hon. C.J. SUMNER: He is not there anymore. He's gone.

The Hon. I. Gilfillan: Does that mean we stop investigating the Queensland Bjelke-Petersen Government, because they are not there anymore?

The Hon. C.J. SUMNER: That is a totally different situation.

The Hon. I. Gilfillan: Well, it's the same logic.

The Hon. C.J. SUMNER: It is not the same logic at all.

The Hon. I. Gilfillan interjecting:

The PRESIDENT: Order! The honourable Attorney.

The Hon. C.J. SUMNER: If the honourable member is suggesting that there was some wrongdoing on the part of Mr Faris, some corruption, that he was paid to do it, or that the Government pressurised him to do it, then fine, but there is no suggestion of anything like that anywhere.

The Government has made its position clear, and I will repeat it again: the Government had nothing to do with the Faris decision to review the Stewart document; we heard about it subsequently. That is the critical issue. That is what we have said and I stand by that now. I had nothing to do with it. The Police Commissioner said that he had nothing to do with it. The Premier and the Minister of Emergency Services, as I understand it, have said that they had nothing to do with it. We have said that now, and I will say it again. If the honourable member does not believe me I am not sure what more I can do about it.

I will return to the substantive position. On 24 October a motion was introduced by the Hon. Mr Griffin to get Mr Justice Stewart, Mr P.M. Le Grand, Mr L.P. Robberds QC, Mr P. Faris QC, and Mr P.H. Clark before the bar of the House. I described that as a stunt, and I am afraid that the call for a royal commission, regrettably, falls into the same category. What we have here and we see it today, is the official Opposition and the Democrats competing for publicity. There is a tactical game going on; it is who can get in first with the new Operation Ark story. That is why yesterday we had Mr Griffin getting the call first, and you could see that he was eager to make sure he jumped up before the Hon. Mr Gilfillan.

The Hon. I. Gilfillan interjecting:

The Hon. C.J. SUMNER: I will get to the royal commission in a minute. Mr Griffin gets up to beat Mr Gilfillan at the tactical game of who is going to move the motion first. That is what has been going on. What really concerns me, and it concerned me about the motion moved on 24 October, is that the proposals are simply not thought through. For a lawyer like the Hon. Mr Griffin to come into this Council with a proposition such as he did on 24 October 1990, with all the problems that I outlined with respect to the powers of the Legislative Council in relation to getting these people before it, astonishes me. His ignorance again in suggesting that perhaps he will have a royal commission, or support the Hon. Mr Gilfillan's call for a royal commission, is also, in my view, surprising for someone who one would hope—

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: Sure, but you were suggesting that a royal commission was a possibility. All I am saying is that I do not think it has been thought through, just as getting all those people before the bar of the House was not thought through as far as its legal implications were concerned. So, whether or not you can have a royal commission has not been thought through. The Hon. Mr Griffin has not considered the issues. Obviously, the Hon. Mr Gilfillan has not considered the issues.

The fact of the matter is that there are virtually insuperable obstacles to the South Australian Government establishing a royal commission into the National Crime Authority. First, there is the lack of constitutional power. For South Australian purposes, the National Crime Authority is established and regulated by the (Commonwealth) National Crime Authority Act, and the South Australian National Crime Authority (State Provisions) Act 1984 pursuant to which members of the National Crime Authority may be granted functions under State law.

Members of the National Crime Authority accordingly may exercise concurrent functions and powers under laws of the State and the Commonwealth. While in a very technical and limited sense it may be possible for a State to inquire into functions of the National Crime Authority exercised under State law, in practical terms, it would be impossible to disentangle the exercise of State functions from the functions exercised by members under the Commonwealth Act.

There is a fundamental constitutional impediment standing in the way of a State royal commission seeking to inquire into the activities of a body constituted by a statute of the Commonwealth Parliament. Expressed in the most basic terms, the State simply lacks the constitutional power and authority to subject a body, established and comprehensively regulated by Commonwealth law, to a State's inquisitorial or coercive processes. Any attempt by a State to subject the National Crime Authority to a royal commission would be held beyond power, invalid and nugatory.

Section 109 of the Constitution deals with inconsistency between State and Federal laws. Any exercise of power by the State to subject the National Crime Authority, in its character as a Federal statutory body, to the processes of the South Australian Royal Commissions Act would also be constitutionally invalid because the exercise of powers under State law would be inconsistent with the provisions of the Commonwealth National Crime Authority Act, and would accordingly be invalid by reason of section 109 of the Constitution.

The Commonwealth National Crime Authority Act clearly evinces an intention that the processes of scrutiny and inquiry in respect of the National Crime Authority (that is the Inter-Governmental Committee on the National Crime Authority and the Parliamentary Joint Committee) are exclusive and exhaustive. The Commonwealth Act reveals the clearest intention that no inquiry under the authority of the State should be conducted into a matter which is or

could be the subject of an inquiry by the processes exhaustively prescribed by the Commonwealth Act.

Different questions might arise if there was only a Commonwealth royal commission competing against a State royal commission in respect of the same subject matter [R. v Winneke; *ex parte* Gallagher (1982) 44 ALR 577 at 584]. But, in the present case, the Commonwealth Act has clearly and expressly formulated the rules of conduct for inquiry into the National Crime Authority (which rules are themselves subject to limitations, and to the secrecy provisions of the Act), and the National Crime Authority Act very clearly manifests an intention to deal with the subject to the exclusion of any other law.

National Crime Authority members are Commonwealth officers. Members of the National Crime Authority are appointed and hold office pursuant to the Commonwealth National Crime Authority Act—they are Commonwealth officers in the proper constitutional sense (notwithstanding the conferral of State powers on them by the State National Crime Authority (State Provisions) Act 1984)—and the High Court has exclusive and original jurisdiction in respect of all matters where writs of mandamus prohibition or an injunction is sought against an officer of the Commonwealth [Re Cram *ex parte* NSW Colliery Proprietors' Association Ltd (1987) 163 CLR 123]. The exercise of judicial power by way of prerogative process against National Crime Authority members is a matter only for the High Court, and judicial review of the administrative decisions with respect to the National Crime Authority is regulated by the Commonwealth Administrative Decisions (Judicial Review) Act 1977 (see section 57 of the Commonwealth National Crime Authority Act).

As to the limited reach of South Australian Royal Commissions Act, the State Royal Commissions Act has very limited or no extraterritorial legislative operation: that is, the Royal Commissions Act is ineffective to compel obedience to any of its coercive or inquisitorial processes beyond the borders of the State. I quote Enid Campbell *Contempt of Royal Commissions* (1984, Monash University) page 9 as follows:

> . . . the coercive powers possessed by a State commission, may be exercised only in that State.

So, we have the same extraterritorial problem which I raised when this matter was debated in relation to calling Justice Stewart and others before the bar of the House. But, that has been ignored. The Hon. Mr Gilfillan has ignored it and has called for a State royal commission, knowing full well that he cannot get in any of the people who are outside the State. The provisions of the Service and Execution of Process Act (which enable the service of legal process beyond State borders) are not available in respect of royal commissions.

I now turn to secrecy provisions. Any State royal commission into the National Crime Authority or National Crime Authority operations would, apart from all the constitutional impediments, be bound and restricted by the existing secrecy provisions (section 51 of the National Crime Authority Act) as is the Commonwealth Parliamentary Joint Committee. (See opinion of the Commonwealth Solicitor-General, Gavan Griffith, dated 20 August 1990.)

The Hon. I. Gilfillan: How come Mr Le Grand got an exemption?

The Hon. C.J. SUMNER: He didn't. The honourable member has misunderstood that completely. A State royal commission would be in no different position in terms of the limitations imposed by the National Crime Authority Act secrecy provisions than is the Commonwealth Statutory Committee, or of a select committee of the State Parliament.

For all the foregoing reasons the coercive provisions of the State Royal Commission Act would simply not avail against the National Crime Authority at a Federal statutory body, nor against its members or officers, nor in respect of its operations. It might help if members, including the Hon. Mr Gilfillan and the Hon. Mr Griffin, considered these matters before they pressed on with suggestions that the State should establish a royal commission. It would be constitutionally naive in the extreme to contemplate the instigation of a State royal commission in respect of the National Crime Authority.

The legislative scheme underpinning the National Crime Authority, consisting as it does of Commonwealth and complementary State legislation, was designed and drafted to recognise the need for supervision and monitoring the National Crime Authority—and those safeguards are established by the Commonwealth Act itself, through the mechanism of the inter-governmental committee on the National Crime Authority and the parliamentary joint committee.

The National Crime Authority in its character as a federal statutory body is simply not constitutionally susceptible to the coercive processes of a State royal commission, and additionally even if it were, the State's processes only run to its borders. Even if a joint Commonwealth/State royal commission were held, substantial impediments would remain. In order for a joint Commonwealth/State royal commission to operate effectively, special overriding legislation would be required in respect of secrecy provisions and the like.

I would only ask members to contemplate the situation of retrospectively overriding secrecy provisions that have been put into legislation for the protection of the reputation of individuals who might have to appear before the National Crime Authority. That is why the secrecy provisions are in there and the suggestion that by an Act of Parliament it is possible retrospectively to override them to enable certain things to be examined, quite frankly, has quite horrendous implications for the whole operation of the authority and, indeed, would have horrendous implications, I would have thought, for law enforcement generally.

What people have thought might be matters of secrecy within the authority—and they might be matters coming from informants or a whole range of information that is provided to the authority—could retrospectively be thrown aside by an Act of Parliament to enable examination of these matters. One may say that the removal of the secrecy provisions would be restricted only to enable this particular inquiry. That is fine, except that this would be done retrospectively. What assurance does anyone else have who may have worked for the National Crime Authority or cooperated with it in its operations that the matters that they have put to the authority would have been protected?

The Hon. I. Gilfillan: It is not answerable to anyone.

The Hon. C.J. SUMNER: It is answerable.

The Hon. I. Gilfillan: There is no opportunity for investigation; it is answerable to nobody.

The Hon. C.J. SUMNER: And neither should there be the capacity to inquire into its investigations. It is given the authority to carry out investigations and the notion that a committee or royal commission can go over and second guess its investigations would be a fairly horrendous situation for us to contemplate, and here we are really talking about only administrative matters, in any event.

The Hon. I. Gilfillan: Why the secrecy?

The Hon. C.J. SUMNER: I agree; why the secrecy and I said that perhaps the national legislation could be amended somehow or other to allow the secrecy provisions to be lifted in relation to certain matters, but it is a very difficult

line to draw, it seems to me. Once we start playing around with secrecy provisions that have been put into place, obviously we have difficulties. We would be legislating retrospectively to remove something that everyone who dealt with the authority and worked in the authority thought was in place. They thought they could deal confidentially with people because there were certain secrecy provisions. We would open all that up: confidential discussions that were protected by secrecy provisions could be examined, and so on.

The Hon. J.C. Burdett: Why not table the Stewart report?

The Hon. C.J. SUMNER: You table it.

The Hon. J.C. Burdett: It was a report made to Government.

The Hon. C.J. SUMNER: It was not a report made to Government; that is quite wrong.

The Hon. J.C. Burdett: What was it?

The Hon. C.J. SUMNER: It was a document prepared in the Stewart authority, which Mr Stewart said was a completed report and—

The Hon. J.C. Burdett interjecting:

The Hon. C.J. SUMNER: I am not going to go through all that again—It was sent to us as a document.

The Hon. J.C. Burdett: Well, why not table it?

The Hon. C.J. SUMNER: Simply because I have outlined previously why the Government does not believe it should be tabled, and I do not want to repeat all that again. Certainly, the Faris authority thought it would be unfair to the individuals named in the document to table it; the Government believed it would be unfair to the individuals named in the document to have it tabled, and therefore we do not believe it ought to be tabled. I think it would be unfair to certain officers who had no charges of criminality made against them for the report to be tabled. We have the Stewart document. We have made it available to the Police Commissioner, who has taken certain action with respect to it in any event and we have reported those actions to the Parliament.

In his interjection, the Hon. Mr Burdett has actually raised an important point and I find it incredible that the media apparently have completely ignored it. I find this absolutely astonishing. The document has been in the public arena in some form or other since March this year. The *Advertiser* said it had a copy of it then and subsequently it has been provided to the Hon. Mr Gilfillan and the Hon. Mr Griffin who do not mind quoting great slabs of it. The media do not mind running great slabs of it. All I can say is that if the Hon. Mr Griffin and the Hon. Mr Gilfillan think the report ought to be tabled they can table it; they have it.

The Hon. I. Gilfillan: That is not the issue. Why was—

The Hon. C.J. SUMNER: I know, but you have said it ought to be tabled. You have it; you table it. You take responsibility for tabling it.

The Hon. I. Gilfillan: Justice Stewart said it should be tabled.

The Hon. C.J. SUMNER: Stewart actually didn't. You read it.

The Hon. I. Gilfillan: I have the letter.

The Hon. C.J. SUMNER: You have his letter. He said subsequently that it should be tabled. If you read the report itself, you will see that there is a qualification that there are matters in there that could affect law enforcement, and so on, and it is the usual caution about tabling the report. Read the Stewart report and you will see it in there. After the row with Faris, he wrote and said he thought it ought to be tabled. That was not his view—you read it—in the actual report, was it?

The Hon. I. Gilfillan: It was pending investigation—

The Hon. C.J. SUMNER: No, it wasn't; you read what he says. From his point of view, the report had been completed but in there he has a specific paragraph saying not quite that it ought not to be tabled, but he virtually says that there are matters in there that could affect law enforcement and so on in the future. So, what I find astonishing and, I must confess, a trifle hypocritical, is that now that the Hon. Mr Griffin and the Hon. Mr Gilfillan have the report they are not prepared to table it. They keep calling on the Government to table it. We have given our reasons for not tabling it.

The Hon. I. Gilfillan: I have not called on you to table it.

The Hon. C.J. SUMNER: You certainly have.

The Hon. I. Gilfillan: I am calling for a royal commission.

The Hon. C.J. SUMNER: Not on this occasion, but you have called for it to be tabled dozens of times in the past. Do not try to get out of that. You have called for it to be tabled. You now have it; if you want to take responsibility for tabling it—

The Hon. I. Gilfillan interjecting:

The Hon. C.J. SUMNER: Oh, come on. Well, okay, you table it and take the responsibility. We have given our reasons why we do not think it should be tabled. It really is an extraordinary double standard, with respect, for the Hon. Mr Griffin and the Hon. Mr Gilfillan to have the report and not to table it. I know why they will not table it; it is because they do not want to take the responsibility they would then have for the potential destruction of the reputations of certain people who were named in it. Let us just see where we go. Members opposite can consider whether they ought to table it; they have it. The Government has no more obligation on it now to table it than do the Democrats or the Opposition. I have dealt with the question of the royal commission. I hope I have outlined reasons why, apart from reasons of principle, I do not think a royal commission into what are essentially administrative matters and a difference of opinion is justified. In any event, in my view, there are insuperable constitutional obstacles to such a course.

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

SRI LANKA

The Hon. I. GILFILLAN: I move:

That this Council—

1. condemns the persistent human rights violations by all sides including extrajudicial executions, 'disappearances' and torture in Sri Lanka which affect the population in both north and south and which are outlined in recent reports by Amnesty International;

2. calls on the Government of Sri Lanka to:

   (a) set up an independent commission of inquiry into extrajudicial executions, the result of which should be made public; and

   (b) investigate impartially, through an independent commission of inquiry, the whereabouts or fate of all people reported to have 'disappeared';

3. while understanding the very real constraints placed upon the Sri Lankan Government by the conflict, urges the Government of Sri Lanka to ensure strict control, including a clear chain of command, over all officials responsible for apprehension, arrest, detention, custody and imprisonment as well as over all officials authorised by law to use force and firearms; and

4. urges the Australian Government to seek whatever ways are appropriate to bring a halt to all human rights abuses carried out by all armed parties in Sri Lanka and urges all parties involved to exercise maximum restraint.

I urge members to read this motion: I will not go through it myself, but I will describe it in general terms. It is at the request of Amnesty International, which is an organisation held in high regard by every member in this place and which has notched some remarkable achievements in securing the release of prisoners of conscience, and putting pressure on regimes that have used torture, extra-judicial executions, and other totally undesirable practices, as part of their routine operations.

It is not the intention of those of us who move this motion to involve the Council in lengthy debate although, of course, if the Parliament chooses to do so there is no obstacle to that. Rather, our intention is to point out that Sri Lanka has been chosen by Amnesty International as a particular target amongst many other areas in the world of concern to Amnesty International. The choosing of Sri Lanka is not exclusive, and does not mean that no other area is the subject of concern to Amnesty International, nor does it mean any specific identification of priority.

This motion is one amongst many constructive moves world wide that Amnesty International has initiated in an attempt to diminish, as it has substantially in the past, the unjust imprisonment, torture, and execution particularly of people who have fallen foul of the regime on questions of conscience or political disagreements.

I am encouraged by conversations that I had with other members of this place before moving this motion that it will be successful and will not necessarily take up much debating time of the Council. It is not my intention to speak to it at length, but to reassure the Council that my personal assessment, as a member and supporter of Amnesty International for many years, is that it selects carefully, without fear or favour, areas of concern.

In Sri Lanka it is urging both sides of a most unfortunate conflict that has developed to reject the totally unacceptable human rights violations that tragically are being perpetrated in Sri Lanka. It is a specific request by Amnesty International. It mirrors exactly a motion that was passed unanimously in the Federal Parliament. I urge members to recognise this call for help by an organisation of extraordinarily high regard in human conscience and world vision.

The Hon. M.S. FELEPPA secured the adjournment of the debate.

CAT BILL

The Hon. M.J. ELLIOTT obtained leave and introduced a Bill for an Act to establish the Cat Management Committee; to regulate the sale and the supply of cats; to encourage the desexing of cats; and for other purposes. Read a first time.

The Hon. M.J. ELLIOTT: I move:

That this Bill be now read a second time.

The aim of this Bill is relatively simple—to control the number of unwanted cats being bred and subsequently dumped to join the feral and stray cat population or meet their end in animal refuges. There is no intention that this Bill will operate in any way similar to the Dog Control Act. No-one is talking about cat-catchers roaming the streets of Adelaide in search of illegal moggies. Cats are by nature very different from dogs and so this Bill is focused on population control, not movement control.

I have two reasons for wanting legislated controls on cat breeding: concern for the welfare of unwanted cats and concern about the enviromental damage caused by feral and stray cats. The Animal Welfare League and RSPCA estimate that they handle about 20 000 unwanted cats a year: most of these are kittens and most are killed. When we consider the number of cats that do not make it to the refuges, are killed by vets, on the roads or other inhumane circumstances along with the ones that manage to survive in a half-wild state that is a lot of suffering, caused in the first instance by irresponsible people allowing uncontrolled breeding in their backyards. This legislation, by requiring people to make a commitment to either desex a kitten, or pay a registration fee to be able to breed from the cat, is a way of encouraging responsible pet ownership.

My second concern is the environmental destruction caused by stray and feral cats. A complete solution to that problem is beyond the scope of this legislation, and efforts to control feral cats are being made by several Government departments. This legislation, by aiming to limit the number of unwanted domestic cats being bred, will stem one avenue from which the feral cat population is continually boosted. Although many unwanted cats, dumped alive on the sides of roads or in rubbish tips, face an agonising and slow death from starvation and disease, many survive to breed more wild cats.

Anyone with the Australian environment at heart will realise that something must be done to halt the cycle of dumped cats continually boosting the feral cat numbers. These cats, with the assistance of foxes and rabbits, have devastated the native animal populations of South Australia. Moves to control the size of the cat population are not, and should not be seen as, an attack on responsible cat owners.

The Petcare Information and Advisory Service, an organisation funded by pet food companies, found this to be the case in its study *Cat Ownership in Australia*:

> Because all cat owners surveyed regarded themselves as responsible owners and their particular pets as being under control, the great majority could see no problems arising personally should Government involvement in cat ownership become stronger. Similarly, non cat owners, who have every right to believe the keeping of pet cats should not infringe on their basic rights or comfort, predictably opted in large numbers for stronger controls of pet cats.

Moves to control cat numbers through registration and desexing are being considered in Tasmania, where a petition has been published by the *Mercury* newspaper. The Tasmanian Animal Protection Society has called for legislation as a first step to controlling the cat population. I have consulted with cat breeders who believe, in most cases, that this is a positive move, although I admit that some breeders are opposed. In a letter supporting the Bill, the Feline Association of South Australia states:

> FASA is strongly in favour of regulating the supply and desexing of cats as has been demonstrated in our previous submissions to you . . . Should the Bill be successfully passed, this association will take steps to tighten up membership qualifications and breeding rules and regulations in order to support the Bill.

That association recognises quite rightly that the legislation is not targeted at breeders because they would have the most controlled and cared for cats in the community. Rather, it is aimed at the impulse buying of kittens and people who cannot be bothered having their cats desexed.

The experience of the RSPCA and the Animal Welfare League, which provide desexing vouchers with the kittens and puppies that they sell to the public, is that, once the service is paid for, the voucher is redeemed in the vast majority of cases. The Animal Welfare League is supportive of this Bill, saying in a letter to me:

> The Animal Welfare League would encourage compulsory desexing of cats, understanding that this is probably unacceptable to some people. We would suggest, therefore, a prohibitive registration fee to deter the keeping of entire cats.

The cat committee, as proposed by this legislation, would have the ability to exempt from fees breeders registered with recognised breeder organisations or to set a substantially lower fee, if either of those approaches is deemed appropriate. Cats belonging to those breeders may also be exempt from being marked where they are confined and kept in runs.

There is no reason why breeders would be disadvantaged under this legislation; in fact, they may find that the market for their cats increases. More breeders may be attracted to the organisations to take advantage of the lower registration fee and therefore be bound by the organisation's rules and regulations. The main aims of the Bill are to require all pet cats to be either registered or desexed (the fee for registration or the price of a voucher for desexing must be paid for at the time of the purchase of a cat); to require registered and desexed cats to be marked in some way so that they can be identified one way or the other; and to establish a cat committee to oversee the legislation.

The cat committee, which will have representation from a broad spectrum of groups involved with cats, will be responsible for setting the finer details of the system. It will set the fees for registration, the value of desexing vouchers, the method of marking cats and the delegation of powers. It is envisaged that the registration fee will be significantly higher than the cost of desexing to act as a financial incentive to having the operation performed.

A survey carried out by the Social Development Committee of the Victorian Parliament during its inquiry into the role and welfare of companion animals in society in 1989 found that 74.5 per cent of the respondents thought that higher registration fees should apply to owners of animals which are not desexed. The value of the voucher for desexing will also be set by the committee, which I would like to point out will contain representation from the Australian Veterinary Association. Vets with whom I have spoken have been concerned that their costs still be recovered, and there is no reason why that should not be the case. Certainly, they are concerned that there may be some pressure to decrease the cost of desexing, but I think the greater risk for them in the long run is if an alternative mode is adopted and the Government must fund desexing vans that do it for free. I know that there has been pressure for some time to do that. Personally, I do not think that it would be successful and that it would be a greater disadvantage to veterinarians.

By more actively encouraging responsible pet care, this Bill may even bring vets more business with visits, once initial contact is made between owner and vet for the purpose of compulsory desexing, from cats who may have otherwise lived and died without veterinary attention. I would like to emphasise that the committee will have the ability to look at setting lower registration rates for breeders or concessions on desexing vouchers for pensioners.

No group need be disadvantaged by tighter controls on uncontrolled breeding of cats. I am especially concerned because of the well-documented evidence into the value of pets as therapy for the ill and for aged people. The marking method to be used to identify registered and desexed cats, that is, owned cats from unowned cats, will also be determined by the committee.

Two possible methods are likely to be adopted: a system of tattooing or the use of micro-chip implants. The latter is rapidly becoming far cheaper and has some attractions. Cats belonging to breeders or kept for showing, which in most cases are kept in fenced runs, may be exempt from marking on the basis that they are unlikely to be roaming free and, therefore, unlikely to be collected.

The legislation sets a phase-in period after which all owned cats will be required to be marked as desexed or registered. The phase-in period will allow time for people currently owning cats to have them either desexed or registered and marked. Obviously, with proper education programs there is no reason why the three-year phase-in period will not be sufficient.

In an attempt to cut down on give-away and very cheap kittens, so many of which end up neglected or dumped, it will be an offence for a person or pet shop to give away or sell a cat or kitten without the fee for desexing or registration being paid at the time of change-over of ownership. Some councils may fear extra work in administering the scheme. This is not the case, however. There are two problems local government now has that cannot legally be tackled. At present local councils have very little protection if they are attempting to clean up stray cats in a problem area or where a person has a backyard crawling with cats such as the recent example from Sydney, where an elderly gentlemen had about 162 cats still breeding on his property—he said in an effort to make some extra money.

This Bill will empower local authorities to collect and destroy stray and feral cats—if they decide it is necessary to do so; I know that some councils are simply desexing and then releasing the cats—which pose a health or environmental threat. What this Bill does not do is to put any requirements on councils over and above that; it simply empowers them to act in two areas in which they are at present powerless. Responsible cat owners need not fear this, as under the legislation, their cat would be identified as being owned and therefore not be accidentally rounded up with the problem cats.

I emphasise again that it is not envisaged to have a cat catcher roaming suburban streets in search of unmarked cats. I simply do not see this legislation working in the same way as the dog control legislation. All it will do is to give local government the legal power to do what some councils are doing anyway, but often not admitting to, that is, to round up cats where there are major problems with strays or the power to act where a person has a large number of cats in a backyard and is creating a very real public nuisance—something that councils cannot act on at this stage. The cost to the State Government should also be minimal. The Cat Management Committee will need some services, but they will not be full time. They will need a minimal amount of secretarial assistance, and any other work that needed to be done could be done by other officers as part of their existing duties.

Public education would be a major feature of the scheme, and provision is made for the legislation to be phased in to allow a proper and comprehensive awareness campaign to be mounted. The discounts and subsidies that I have mentioned are suggestions only and will ultimately be the subject of both Government decision and the advice of the Cat Management Committee. The legislation will be the start of a solution and a recognition of the fact that there is a problem out there that needs to be tackled. It is not intended to be a solution in itself.

Quite clearly, education programs which have been going on for a long time need to continue. However, it needs to be noted that, despite these education programs, if one goes to the Animal Welfare League or the RSPCA right now, one will see boxes upon boxes of kittens being brought in daily. The kitten season started about a month ago and it will continue for several more months. Those organisations will put down close to 20 000 kittens this year, as they did last year and as they have done in previous years. I urge

members to keep that thought in mind when considering this Bill.

Clause 1 is formal. Clause 2 sets the date of commencement of the Act. The later date of commencement for section 11 allows for a phase-in period for the scheme. Clause 3 contains definitions. Clause 4 outlines the membership of the Cat Management Committee. I have attempted to include in the composition of the Cat Management Committee a diverse range of bodies which have a legitimate interest in this matter, ranging from Government representatives to the Australian Veterinary Association, the RSPCA, the Animal Welfare League, the Local Government Association and representatives of cat breeders. I believe that that should give a healthy representation of all interests.

Clause 5 outlines the function of the committee. Clause 6 requires the committee to report to the Minister once a year and that a report be laid before Parliament. Clause 7 allows the Minister to appoint officers for the purposes of the Act. Some of those officers, as I have already suggested, may be people who are currently enforcing other similar Acts for the Government. Some people may be appointed at local government level, but that is not required.

Clause 8 outlines the establishment and running of the Cat Management Fund for the purposes of this Act. Clause 9 requires veterinary surgeons to mark cats in a manner required under the Act and also prohibits people who are not veterinary surgeons from marking cats. Quite clearly, that is necessary so that we do not have people marking a cat as being registered when in fact it is not.

Clause 10 regulates the sale and supply of cats. I believe this is where the Act will be most effective. We must intervene at the point of sale and supply. Clause 11 authorises the destruction of unmarked cats. I would like to note that the reason for this Bill, for a start, is to stop the destruction of cats in the long run which, as I said, is at a very high level. I know that some animal liberation people object to clause 11 but I think that, if we are realistic and if this Bill does what I hope it will do, the number of cats that will need to be destroyed will be reduced dramatically.

Clause 12 provides for the registration of entire cats. As I said, if a cat is not desexed, we should require a registration fee, and I expect that such a fee must be in excess of the cost of desexing in order to encourage such desexing. Clause 13 outlines the scheme for the provision and redemption of vouchers for desexing.

Clause 14 grants immunity from liability to an authorised officer undertaking duties outlined in the Act. Clause 15 allows for the fixing of regulations for the purposes of the Act, including the fees for registration and desexing vouchers. Clause 16 sets an expiry date for this Act within 10 years. It is my expectation that it will take at least five or six years before we see a major impact from the enforcement of this legislation. But, I think it is realistic to make a deadline of 10 years and if, in those 10 years, we find that the Bill has not achieved what is hoped, it will lapse and not be renewed.

Having listened to a rather meaty debate concerning the NCA, some people may feel that having a discussion about the desexing of cats is unimportant. However, I can assure members that I receive a lot more phone calls in my office about this matter than I do about the NCA.

An honourable member: We believe you.

The PRESIDENT: Order!

The Hon. M.J. ELLIOTT: This matter is of great interest to a large number of members of the public, and I can assure you that the number of phone calls I have received opposing this Bill can be counted on the fingers of one hand. However, the number of phone calls I have received in support of it has been quite large, and there is general support from the public for it. While I have indicated that some cat breeders have reservations, as indicated in a letter that I received today, there are other cat breeders who strongly support this legislation. I feel that, when I have groups such as the Animal Welfare League giving strong support as well, it is a matter that deserves due consideration and that it is something on which we should not continue procrastinating.

I have suggested, and it is important to note, that the costs involved are very low. We have nothing to lose by trying this because, quite simply, everything else that has been tried until now has failed. While everyone agrees that desexing of cats is a great idea, no-one really has any notion of how to go about it. Personally, I believe that there is a need for sanction. Unfortunately, education programs are not sufficient and I urge all members to support the Bill.

The Hon. CAROLYN PICKLES secured the adjournment of the debate.

COUNTRY RAIL SERVICES

Adjourned debate on motion of Hon. Diana Laidlaw:

That the Legislative Council—

1. Deplores the decision by the Commonwealth Minister for Land Transport to close South Australia's regional rail passenger services by the end of the year;
2. Believes the decision to be in breach of section 7 and section 9 of the Rail Transfer Agreement 1975;
3. Seeks clarification from the Commonwealth Government about the fate of our regional rail freight services;
4. Calls on the State Government—
   (a) to employ all possible legal avenues to ensure South Australia is not reduced to being the only mainland State without regional rail services; and
   (b) to investigate and confirm the long term options for ensuring regional and rural areas of South Australia have access to efficient and effective passenger and freight transportation services in the future.

(Continued from 21 November. Page 2048.)

The Hon. R.R. ROBERTS: I rise to speak to this motion and indicate amendments which I have had printed and which I will make available to members. In looking at this motion, I welcome the opportunity to make some comments because of my own involvement in issues relating to railways. In particular, I would like to go through each of the clauses and comment on them because the Government does agree with part of the motion and seeks to amend other parts.

In first examining this proposal put forward by the Hon. Miss Laidlaw, in respect of paragraph 1 I was tempted to say that this Council 'regrets' rather than 'deplores' the Commonwealth Minister's decision. When one looks at the implications involved in this issue of country railways, one can easily say that it is an economic argument. In fact, many people have suggested that, because of the economic situation with respect to railways, because of the costs incurred, because in most instances we are subsidising passenger travel by at least $60 to $100 and because we need to spend some $30 million, one could very quickly say that, indeed, there is only one decision to be made. But, with respect to this issue we are talking not only of an economic situation. In fact, railways have social justice, social security and industrial implications which I do not believe have been fully canvassed by the principal players involved in the discussions about the closure of country railways.

When I speak of the social justice part of railways, I think anybody who looks at any public transport system would

recognise that they are not a money making concern. In fact, it is deemed necessary by our society to provide transport for those who cannot afford any other alternative.

This issue of railways has social security implications, and I put it to members in this place that, because of the way in which our social security system has operated for many years, it is part and parcel of retirees' and other pensioners' expectations that they will be entitled to a number of free trips per year.

This is particularly important to people who live in country areas, because they see that as the one means of getting to the metropolitan area, in particular, to undertake their business. To take this away from them in fact takes away something without an alternative. We must deplore a situation where you take away a right of the citizens and offer no alternative. So, in that respect there is a benefit which people have come to expect; that in their retirement they will be entitled to travel, and country people, in particular, see this as something which overcomes the tyranny of distance experienced by them and the fact that they cannot utilise other STA facilities that are available to people who live in the metropolitan area.

The other thing that I would like to mention in this respect concerns an industrial matter. I refer principally to railway employees who live in Port Augusta and Port Pirie, and, to some extent, Whyalla. This matter has been raised by the organiser of the Australian Workers Union in Port Augusta, Mr Alex Alexander. One of the things that is available to all employees of Australian National has been that they get some six free trips on Australian National Railways each year. This becomes particularly important to the families of those people, who from time to time have to travel to Adelaide for medical reasons and other purposes. Indeed, this is part and parcel of the conditions of employment for people who work in the railways. I believe it is a situation that the Government cannot gloss over by saying that Australian National Railways now has a corporate charter and is no longer a Government instrumentality.

When talking about social justice and the social security implications, it is the Federal Government's responsibility to take cognisance of these facets of the argument. Those people who work for Australian National had an expectation, as part of their social security entitlements and as part of their industrial awards, that these particular perks would be available to them for all time. The Federal Government has said that it wishes to put aside its responsibility and make ANR responsible to itself and make itself economic.

I do not believe, just by the stroke of a pen, that we can take away the responsibilities of the Government in that way. It is encumbent upon the Federal Minister for Land Transport to undertake some negotiations between the principle players in this debate, that is, the local government people, the trade unions, employers and industrial advocates who speak on behalf of the trade unions, and to come up with some reasonable responses and to fulfil what I believe is its responsibility in attempting to overcome these problems.

When talking of corporate players, I have to include a responsibility that I believe rests upon the trade union movement, to sit down and look at the changing face of railways, because railways in Australia are no different from what has been happening in the rest of the world. The changes in railways in Britain, France, and indeed in Sweden, have been absolutely dramatic and the trade union movements in those countries have had to take cognisance of the change. In Australia we are now involved in a massive change in award restructuring and rationalisation of industries. I believe that the challenge is there before the trade union movement at the present time to look at this particular situation with a view to coming up with some sensible alternatives which will provide the basis for an ongoing transport system and which will be effective for people living in country areas.

I call on the Federal Government to delay any decision to close these country rail services before Christmas, to give the people I have mentioned previously the opportunity to sit around and address this problem in a rational and sensible way, to try and come up with some alternatives which will provide a reasonably effective mode of transport. We must overcome the problem in relation to the industrial situation which I talked about. The railways people are going to be disposed of those six trips. If you talk in terms of $35 per trip, it is $200. With the movement and activities that are taking place in rationalisation and restructuring, I think it is a simple matter, by way of just one example, to say, 'Well, because you have lost that right as a condition of your employment and as a former employee of the Government and now an employee of the railways, under the wage fixing principles we will apply $2 or $3 per week to overcome the travelling costs.' That would be easy enough to justify.

Another option I suggest, if I may be so bold, in respect to the social security aspect of these particular things: if you are going to take away from social security recipients the right to ride on a train free, then as a Government with a responsibility to look after the aged, infirm and the sick we ought to provide some alternative. In the past we have been subsidising travel by $60 to $100, and it does not seem to me to be a great impost to provide people in country areas with a voucher which will allow them to travel by some other mode of transport and thus overcome the tyranny of distance that is experienced by most people in the country.

Paragraph 2 of the Hon. Diana Laidlaw's motion states:

[That the Legislative Council] believes the decision to be in breach of section 7 and section 9 of the rail transfer agreement 1975.

The Government opposes this. I seek to amend the motion and will formally do so now. I move:

Leave out paragraph 2.

The advice I have received in respect of this matter, from Crown Law, is that the Crown Solicitor indicates that the services introduced after the transfer in 1975 are not part of the Railways Transfer Agreement and cannot be taken into arbitration. This means that the withdrawal of the Mount Gambier service may be a breach of the transfer agreement, whilst, unfortunately, the Whyalla and Broken Hill services are not. It is fairly clear that in fact the best legal advice says that that course is not open to us. However, I understand the sentiments of the proposer in putting this proposition forward.

Paragraph 3 of the motion seeks clarification from the Commonwealth Government about the fate of our regional rail freight services. In this particular situation the Government has no problem and would seek to endorse that part of it. In commenting on that proposal, it has been put to me that the freight rail services now hinge fairly largely on the cartage of grain traffic.

To that extent I would suggest that the Australian National Railways Commission and the bulk handling authorities need to take a close look at this particular problem. The Federal Minister for Land Transport has responsibility in respect to what happens with petrol taxes and the distribution of those taxes—we have some responsibility in those areas—and I would suggest that if there are any surpluses in that area they could be used to provide some relief in

the area we are now talking about, that is regional rail services.

I think it is imperative that the Federal Government, when distributing the funds that have been generated by transport taxes, provide relief for farmers, thereby providing them with a means to stay on their farms and, in a sense, keep the options for regional freight services open.

Paragraph 4 *(a)* of the motion calls on the State Government to employ all possible legal avenues to ensure that South Australia is not reduced to being the only mainland State without regional rail services. One is tempted to make a frivolous remark and ask the mover what other States she thinks ought not to have regional rail services. However, this is not a jocular situation, and I understand what the mover is alluding to. I move to amend paragraph 4 as follows:

Strike out paragraph *(b)* and substitute the following paragraph:

(b) to continue to investigate the long-term options to ensure regional and rural areas of South Australia have access to efficient and effective passenger and freight transportation services.

There is not a great difference between this wording and the original paragraph 4 *(b)*. However, my amendment does say that we should 'continue to investigate' and leaves out the words 'and confirm'. I think it is fairly apparent that when one investigates, to have 'to confirm' pre-empts what the investigation may involve. I point out that the Government accepts the responsibility—and the Minister in particular is very keen to ensure that this occurs—of ensuring that there are long-term options to enable regional and rural areas of South Australia access to efficient and effective passenger services.

One could also have some trepidation about the words 'efficient and effective' when one is talking about the provision of public transport. I suppose it is open to interpretation as to what is 'efficient'—whether it is cost efficient or whether it is efficient in terms of getting from A to B in an effective manner. The other alteration to the wording of paragraph 4 *(b)* is to leave out the words 'in the future' after the words 'freight transportation services'. That is fairly self-explanatory. I commend my amendment to the Council.

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

[*Sitting suspended from 5.56 to 7.45 p.m.*]

NATIONAL CRIME AUTHORITY

Adjourned debate on motion of Hon. K.T. Griffin:

1. That the Legislative Council invite Mr Justice Stewart, Mr P.M. Le Grand, Mr L.P. Robbards, QC, Mr P. Faris, QC and Mr P.H. Clark to appear before the bar of the Legislative Council to provide to the Legislative Council information as to the status of the report on Operation Ark prepared by Mr Justice Stewart for which a letter of transmittal was signed by him on 30 June 1989 and to answer such questions as may be relevant to the preparation of that report and subsequently to 30 June 1989, the refusal or failure by the National Crime Authority to officially transmit that report to the South Australian Government until 30 January 1990.

2. That Mr Justice Stewart, Mr Le Grand, Mr Robbards, QC, Mr Faris, QC and Mr Clark be offered reasonable travel and accommodation expenses to attend before the Legislative Council, such expenses to be approved by the President.

3. That Mr Justice Stewart, Mr Le Grand, Mr Robbards, QC, Mr Faris, QC and Mr Clark be invited to respond to this invitation by 10 November 1990 and that, if they be willing to accept the invitation, the Clerk, in consultation with the President, fix a date and time for their attendance separately or together at the bar of the Legislative Council.

(Continued from 24 October. Page 1321.)

The Hon. R.I. LUCAS (Leader of the Opposition): I move:

After paragraph 1—Insert new paragraph 1a as follows:

1a That if any of the persons named in paragraph 1 hold the view that the National Crime Authority Act prevents them from accepting the invitation of the Legislative Council to appear or answer questions the President write to both the Federal and the South Australian Attorneys-General requesting indemnities for those persons from prosecution to put the issue beyond doubt and to remove any obstacle to public disclosure of information in the public interest.

Paragraph 3—Leave out '10 November 1990' and insert '12 February 1991'.

I believe the amendment is self-explanatory when members look at its terms. Regarding the amendment of paragraph 3, it is quite clear that in terms of the original motion moved by the Hon. Mr Griffin, the date 10 November is no longer appropriate and I seek to amend that to 12 February 1991, being the first sitting week of next year. The reason for the amendment to insert paragraph 1a is that the Attorney-General, in his contribution on this motion, raised questions about the potential conflict between the power of the Legislative Council and the National Crime Authority Act which might prevent those named from answering questions in the Legislative Council. That certainly is not conceded by members on this side of the Chamber, but, to put it beyond doubt, indemnity should be granted by the State and Federal Attorneys-General.

As members will note from the question I asked of the Attorney-General yesterday, a precedent has already been set. The State's indemnity has been granted to Mr Mark Le Grand in relation to providing information to the Federal Joint Parliamentary Committee on the NCA. That indemnity was given by the acting Attorney-General, Hon. Greg Crafter, on 4 September 1990 in relation to some hearings of that joint parliamentary committee on the NCA which were to have been conducted in September 1990. There was certainly an indication in some press reports last week, including a front page article in the Adelaide *News*, that not only had State indemnity been granted to Mr Le Grand but, indeed, so too had a Federal indemnity been granted. I urge the Council to consider the amendment.

The Hon. G. WEATHERILL secured the adjournment of the debate.

ROAD TRAFFIC ACT AMENDMENT BILL (No. 3)

Adjourned debate on second reading.

(Continued from 17 October. Page 1070.)

The Hon. T. CROTHERS: This amendment to the Road Traffic Act was moved by the Hon. Diana Laidlaw on 17 October this year. The Government has very carefully considered the impact of her amendment on some aspects of the Road Traffic Act as it currently exists. It appears to the Government that one of the benefits of the amendment is that it would remove the ability of a person to use the information given by coin operated alcohol breath testing machines as a reason for a reduction in sentence or for the purpose of raising the defence of having made an honest mistake if later detected by the police as being over the legally allowable limit. I must, however, indicate that this benefit contained in the amendment was not highlighted by the mover when she presented it to the Council. The Government further acknowledges that coin operated alcohol breath testing machines can assist in the education of drinkers about their blood alcohol concentration and thereby assist them to comply with the legal limit for drivers. Indeed,

I will take this opportunity to remind the Council that members of this Government have in fact assisted in the launching of marketing campaigns by distributors of the machines. However, having said that, I point out that the personal knowledge at any given time of one's blood alcohol concentration does not remove the responsibility for a driver to operate safely at all times.

The honourable member's speech introducing the amendment Bill stated that the primary justification for the proposed amendment is concern on the part of hotel licensees that they might be legally liable for actions taken by drivers on the basis of the readings given. However, I again note that the honourable member's proposed amendment does not address the whole of this concern in so much as it deals only with evidence on drink driving offences and not with the question of civil liability on the part of hotel licensees. I would further note that section 47g (1) *(a)* of the present Road Traffic Act already excludes everything except a blood test result as evidence against the accuracy of a breath analysis result. Under these circumstances which I have just outlined and on the balance of all considerations to which account has been given, the Government sees no reason to oppose the amendment, and as a consequence I would indicate that the Government supports the Laidlaw amendment.

The Hon. I. GILFILLAN: I indicate the Democrats' support. We have agitated for the installation, as a sensible measure, of breath testing machines in hotels and places licensed to sell alcohol. The arguments have already been canvassed by the Hon. Diana Laidlaw and I want to reiterate the Democrats' conviction that, although from time to time these machines may be used frivolously, that is no excuse for not having them in situations where people who take responsibility can check their own blood alcohol level and from factual information develop a personal drinking regime that is responsible and moderate. Because of the enormous variety of individual equations it is not possible to make generalities with any degree of accuracy and I believe that it should be a legal obligation of any establishment that is offering alcohol for sale to have such a machine of accredited standard in store. So, with pleasure I congratulate the Hon. Diana Laidlaw on introducing the amendment and I indicate support.

The Hon. DIANA LAIDLAW: I thank all members who have contributed to this second reading debate and I particularly thank them for their support for this measure. I could not help smiling when the Hon. Mr Crothers was speaking because there has been considerable discussion behind the scenes with respect to this Bill and I am very pleased to note the Government's conclusion that this Bill does have work to do and that it will have benefit from a road safety perspective. That was my motivation in moving this amendment. I feel very strongly that any Government that sets a blood alcohol limit—at .08, for example, as it is today in South Australia for fully licensed drivers—also has an obligation to encourage drivers who drink to have an opportunity to measure their level of alcohol through such breath testing machines prior to driving.

It is a revelation: I am not sure how many members in this place have used one of these self-testing coin-operated machines as opposed to one of the Government machines that one may have been required to use when picked up or stopped on the roads, but it is most interesting to follow one's reading through responsibly so that one can tell how one's body is absorbing alcohol at a particular time of day or night after particular amounts of food. There is a difference in absorption rates between men and women and they are influenced in situations where the person is undergoing some factors of stress. So, there is a whole range of situations that do affect absorption rates and, therefore, readings and it is therefore important from a road safety perspective that we encourage education and therefore individual responsibility in this field. That was my principal motivation in moving this Bill to remove any threat of liability that licensees may have faced if they had sought to introduce these machines.

My other concern was that, while I believed strongly in the introduction of these machines in licensed premises such as hotels and clubs, I would very much like to see such machines in this Parliament and in other premises throughout the State. However, as the Australian Hotels Association kept telling me there was a reluctance on their part to endorse the installation of these machines because of the concern about legal liability, I thought the best way to deal with that situation was to remove that concern through legislation and now I think it is up to the AHA and others actively to seek the installation of these machines, particularly when the Bill has proceeded to and passed through the House of Assembly. That, of course, should be a swift action, given that the Government does support this move. So, I hope that early in the new year we will see a considerable increase in the number of these machines widely available across the State. Again, I thank members for their contributions and support for this Bill.

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

CENTRE HALL DOORS

Consideration of the House of Assembly's resolution:

That it is still the view of the House of Assembly that the Centre Hall doors should be opened to the voters and taxpayers of South Australia as soon as practicable in order that visiting members of the public can come into their building through the major entrance which was incorporated in the original design and that, for security purposes, the two Houses should jointly cooperate in staffing the Centre Hall using existing resources and the House of Assembly seeks the concurrence of the Legislative Council in this proposal.

(Continued from 22 August. Page 479.)

The Hon. J.F. STEFANI: I wish to make a few comments about this motion. There has been a considerable amount of debate about opening the centre doors to the building. Of course, there have been people in favour of and against the proposal to open the doors. One of the main objections is that in opening the doors, there will be a risk of safety, not only to members of Parliament but also to the people who will climb the centre steps to the building.

Many people, elderly people particularly, will find no support when climbing the stairs, which become very slippery in wet conditions, apart from the fact that we regularly have demonstrations outside the centre of the building, where it is suggested the doors will be opened. It would, therefore, be even more difficult for the building to be approached through the centre doors. Having said all that, I think the main concern in opening the doors would necessitate the employment of additional staff. At this time when people are losing their jobs, farmers are losing their stock and the general community is suffering from the economic downturn, it would be a very foolish suggestion that we allocate money to additional staff that would, I believe, be required, to enable these doors to be opened.

The staff that we presently have would not be able adequately to man the doors without making some sacrifice.

In fact, it would be impossible to ensure adequate supervision of the centre entrance. It is therefore with that very important aspect in mind—of priority over resources—that the Liberal Opposition has given serious consideration to the proposal. We would certainly be happy to see the opening of the doors, provided that additional resources were made available. But, recognising that that is not possible, it is therefore better for the present arrangements to continue and, until both resources and perhaps better access and other arrangements are made about using the centre doors, the proposal should be deferred. Therefore, the motion should be opposed.

The Hon. L.H. DAVIS: I find it highly unusual that a motion of this nature actually reaches the Houses of Parliament. It is only because of the magnificent obsession of a member in another place that we are forced to respond to this motion. The rhetoric which has been a feature of this debate has left me rather breathless.

Members interjecting:

The Hon. L.H. DAVIS: I am very fit. I do not get breathless easily. I am a jogger and not a smoker.

The Hon. I. Gilfillan interjecting:

The Hon. L.H. DAVIS: That is right. My secret mentor, the Hon. Ian Gilfillan, who is giving me lessons in jogging, is going to make me fitter than ever in the months ahead. The genesis of this motion goes back to a discussion which has gone on for an interminable time. Without going back too many years, I would like to focus on the developments of this year.

Back in March 1990, there was consultation between the President of the Legislative Council and the Speaker of the House of Assembly who agreed that the only way in which the centre doors could be opened was by the employment of an additional member on the staff of the Legislative Council. The point was made then—and I accept that point—that the resources currently available to the Legislative Council do not provide for any extra staffing, whereas the House of Assembly has retained the services of the former centre hall attendant. I think it is worth mentioning that, in this jungle of awards which dominates employment in this place, the House of Assembly with seven messengers has one messenger specifically designated as a centre hall messenger, whereas, the Legislative Council, on the other hand, has but three messengers.

The point should be made that the majority of people visiting Parliament House, in my view and on a random sample conducted over the past few days, enter through the Legislative Council doors. My colleagues on this side of the Chamber would confirm that point: that it is the natural entrance to Parliament House, given that it is adjacent to the King William Street/North Terrace intersection.

Members interjecting:

The ACTING PRESIDENT (Hon. G. Weatherill): Order!

The Hon. L.H. DAVIS: So, as things stand, I contend that if a head count were taken a very large number of people would be found wending their way into Parliament House through the Legislative Council entrance.

The argument that has been developed, as I said, in a very colourful and flamboyant style by an honourable member in another place, is that the Parliament has been justifiably held to public ridicule for its incapacity to get cooperation between the two Houses to open the centre doors. The Hon. John Trainer argues quite vociferously that it is with puzzlement that people approaching Parliament House encounter the existing situation, that is, that the centre doors are locked. That is hyperbole; it is rhetoric; but most of all it is nonsense. I have never seen anyone attempt to enter Parliament House through the centre doors, and I doubt very much whether anyone on the other side has. People naturally gravitate to the well-defined entrances to the Legislative Council and the House of Assembly.

The Hon. Anne Levy interjecting:

The Hon. L.H. DAVIS: So, it is not an obvious entry point. That is the point that I am trying to make to the Hon. Anne Levy, who obviously does not wear glasses for nothing.

The Hon. Anne Levy: Only for reading.

Members interjecting:

The Hon. L.H. DAVIS: Mr President, will you protect me from this rabble. She is at it again.

The PRESIDENT: Order!

The Hon. L.H. DAVIS: In developing this very cogent argument let me make some further observations.

The Hon. Diana Laidlaw interjecting:

The Hon. L.H. DAVIS: Forgive my colleague, the Hon. Diana Laidlaw, but she has been out to dinner; in fact, she has just come back from lunch, which is even worse.

Members interjecting:

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

The Hon. L.H. DAVIS: They are trying to divert me from this very important matter. I want to emphasise the point that the Hon. Julian Stefani made so strongly, namely, that under the present Labor Party regime, on my count, we have had a 58 per cent increase in protests on the centre steps. This makes it very difficult for the little old lady who wants to protest about Housing Trust matters with the Hon. Kym Mayes, about the alteration of local government boundaries with the Hon. Anne Levy or about crime and corruption with the Attorney-General, to fight her way through a milling throng of malcontents gathered together with justifiable rage on the centre steps. Of course, not only will we need additional staff to cope with this situation, but we will also need policemen to get the little old ladies through the milling throng of malcontents.

Members interjecting:

The Hon. L.H. DAVIS: Police persons; that is right. That is a very practical difficulty. For example, only last Friday the teachers started gathering on the steps at 3.30 p.m. and they were there until 5 p.m. Quite obviously, if the side doors to both the Legislative Council and the House of Assembly had been shut, how would the citizens of South Australia vent their rage on Government Ministers? In fact, quite frankly, the more I think about it, the more obvious it is that they are deliberately seeking to open the centre doors so that fewer people can come into Parliament House, given that access will be less obvious and that it will be so often restricted by the regular public displays of disaffection for this embattled Bannon Labor Government. That is the first point that I want to make.

My second point is that if we are talking about priorities in this Parliament House, surely there are more important priorities than determining whether the centre hall shall be opened to the great gusts of wind that would inevitably accompany that opening.

Members interjecting:

The PRESIDENT: Order!

The Hon. L.H. DAVIS: Surely there are greater priorities. The Legislative Council has had the rough end of the political pineapple, certainly as far as the Opposition is concerned. We have no fax machines; we have two secretaries for 10 members compared with the Democrats who have three staff members for just two members of Parliament.

Members interjecting:

The PRESIDENT: Order!

The Hon. CAROLYN PICKLES: On a point of order, the honourable member is straying very far from doors and open doors and closed doors.

The PRESIDENT: The honourable member is also getting a lot of interjections.

Members interjecting:

The PRESIDENT: Order! I do not accept the point of order. If the honourable member was allowed to get on with his speech without the interjections, I am sure that he would keep to the point.

The Hon. L.H. DAVIS: Thank you, Mr President, for your wise ruling. Quite clearly, it is relevant to argue that there are far more pressing priorities from the Council's point of view than opening the centre doors with the additional cost of security and the additional staff required. So, in these straitened times, I think that opening the centre doors is the last thing we should be thinking about. I simply do not believe that, for instance, one can compare this issue with the Victorian Parliament which has one obvious entry to which people go. Here, there are two obvious entries.

The Hon. Anne Levy: What do they do when there are demonstrations of malcontents in Victoria?

The Hon. L.H. DAVIS: With such broad steps, there are ways around those malcontents. If the Minister had been to the Victorian State Parliament—and I suspect that she has not in recent times because the chill winds of Mother Russia are blowing fairly strongly through that State—

The Hon. Anne Levy interjecting:

The PRESIDENT: Order!

The Hon. L.H. DAVIS: Quite clearly, there are very cogent reasons for not acceding to the request of the House of Assembly to open the centre doors. The first reason is the impracticality of such a proposal; the second reason relates to priorities; and the third reason, which I want to make a point about because representation cannot be made on their behalf, is that, in my view, the staff members of the Legislative Council are already under a great deal of pressure. Although they service half the number of members that are serviced in the House of Assembly, that does not necessarily mean that they perform half the number of duties. In my view, the Legislative Council's staff receives at least as many inquiries through the Legislative Council entrance as the House of Assembly messengers receive at the other end of Parliament House. To put additional pressure on them at this time is unfair and inappropriate. On behalf of the Liberal Party, which has considered this matter somewhat reluctantly, because we think there are more pressing priorities, we wish to indicate our public opposition to this measure.

The Hon. J.C. BURDETT: I hesitate to enter this postprandial debate, but I want to indicate very briefly that I do not see a great deal of a problem with the present situation. I think the *status quo* is quite satisfactory. I am perhaps the only member of the Council who was here when the front doors were open.

The Hon. L.H. Davis: This was 1984.

The Hon. J.C. BURDETT: Well, who else was here in 1984? Anyway, I was here when both doors were open.

The Hon. R.R. Roberts: Did they let you in?

The Hon. J.C. BURDETT: I did not ever go in that door. The main point the Hon. Mr Davis made was the one about resources.

The Hon. T.G. Roberts: He didn't make any main point.

The Hon. J.C. BURDETT: He did make some major points, the one about resources and several others. But resources is the main one. If we had staff flowing out of our ears there would be no reason why the Centre Hall doors could not be opened, but we do not. The main point I want to make is this: I adopt everything which the Hon. Mr Davis has said, but I make one additional point. In the present situation where the front doors are closed and where anyone wanting to gain access to Parliament House has to come in through the Legislative Council entrance or the House of Assembly entrance, they are met by the staff, the Attendants on the Assembly side and the Messengers on our side. Those staff are in their offices, carrying out their business, with the facilities which they need to carry out their business and they are also able at the same time to exercise surveillance over the people who come in.

The Hon. T.G. Roberts: The malcontents.

The Hon. J.C. BURDETT: Whether they are malcontents or whether they are pleased with us—and there are not very many of those—that is what they do. They are able to carry on with their general business in their offices, with their facilities and at the same time scrutinise those people who are coming in. I would like to take the opportunity of extending my appreciation to the staff, particularly of the Council, who I see most, of course, and also of the Assembly, because they do a wonderful job and they are, as the Hon. Mr Davis suggested, sometimes under some pressure.

The point I am making is that if we opened the doors again, if we could put two persons there, perhaps one from the Council and one from the Assembly and we had the resources to staff it, that would be fine. However, in the present circumstances while they are there, there is not very much else they can do. They would simply be doing that; they would simply be sitting there behind a desk—or perhaps the format could be changed and people could come through walkways or something of that kind. Whatever we did, there would be little opportunity for them to be engaged on other duties, considering the present pressures that they have. They would not have access to their facilities; they would simply be sitting there behind a desk or standing at a bar or whatever. We would have at least one person, and we would probably need two, engaged in this for a considerable period of time.

We are in a time of financial constraint, in both the public and private sectors, when the Government, quite properly, is trying to cut back. If we had the resources to do this, that would be fine, but I believe that we should not put our present staff under pressure by making them staff the central entrance and perhaps three entrances in all. I believe, in the long run, if we opened the front doors, we would continue to use all three entrances. It would be hard to close the Council and the Assembly entrances. If we had the money to do it and if the Government was prepared to provide the facilities and the resources, that would be fine, but I doubt whether it can. Actually, I believe it would be right in the present circumstances to not do so.

It has been suggested, of course, that the front doors be opened and the side doors be closed. Some of my colleagues have been talking about this. I do not know whether the engineering in regard to closing the side doors has been worked out, as to how we lock them and, if we lock them, how we provide facilities for members to get out using a card key. Some of the doors are sliding doors, and that might be a problem, too.

The point I wish to make is that I have no argument with the present situation in view of the limited resources. I am quite happy with the *status quo* and, unless the Government is prepared to be Father Christmas at this time and give us the money for extra attendants, I do not believe that there is any joy or any appropriateness in opening the Centre Hall doors and closing the side doors. I do not have any great problem with the present situation.

The Hon. PETER DUNN: The Opposition does not agree with this proposition. The reason is very simple. It is an ego trip by somebody from another place. It really is an ego trip and nothing more.

The Hon. CAROLYN PICKLES: On a point of order, Mr President. The honourable member is casting aspersions upon the character of an honourable member in another place.

The PRESIDENT: I do not regard reference to an 'ego trip' as constituting a point of order.

The Hon. PETER DUNN: Thank you, Mr President. The member who wants to open those doors is inflating his own ego by being able to go back to his electorate and say, 'I opened up the Parliament.' This is a beautiful building, but it has got three entrances. If anyone has ever tried to look after three entrances they will know how difficult it is. Can anyone imagine somebody here at the Legislative Council end, somebody at the House of Assembly end, somebody in the middle: Ron and John and Arthur would be like red kelpies running up and down there worrying about who is going in and who is going out. It is physically impossible. Furthermore, if we closed the doors out here it would be as dark as a dog's belly. One cannot see in the corner when the doors are closed.

The Hon. Anne Levy: There is such a thing as electricity.

The Hon. PETER DUNN: We are trying to save money. We have just had an argument for 20 minutes about how we can save a bit of money. As a farmer, my income has gone down by about 40 per cent this year.

The Hon. Anne Levy: You've got two jobs.

The Hon. PETER DUNN: I have got one job here but I happen, like you, to have some money invested in something else. That has got nothing to do with the opening the front doors of Parliament House. There is also something else that has not been explained. What happens when there is a fire? The lifts are at the front door. We do not use the lifts, do we? That is the first thing we learn. Even at about four, one learns to do that. The obvious exit is through the doors either side.

Members interjecting:

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

The Hon. PETER DUNN: We know that the place is not the greatest for fire safety, because it is like a rabbit warren wherever we go, but the stairs all lead to either side; they do not lead to the centre. Therefore, it is quite obvious that those doors should be left open, as should the Assembly doors. Otherwise, if there is a fire, particularly in the centre of the building, there would be no exit out these sides. It is suggested that there be magnetic keys. Has anyone ever heard such nonsense? That door is on a roller and it weighs about two tonnes. Can members imagine Bernice Pfitzner opening it with a magnetic key? Mr President, that would be absolutely impossible, unless members use the mickey mouse door, the door that is about two feet by two feet—

Members interjecting:

The PRESIDENT: Order!

The Hon. PETER DUNN: —like the door that comes out of a submarine. The public certainly cannot get in and out of that door. It is silly to open the centre doors and pay someone $20 000 or $30 000 to wear a peaked hat, stand in the middle of the hall and direct traffic either to the left or the right. It is a fact that it is just not sensible; it makes no physical sense whatsoever to place extra people in Centre Hall purely to satisfy one man's ego in his attempt to open the front doors. Fine, we could open them when the Governor comes and on special occasions, but I still think that it is absolute nonsense to open them during the day, for the reasons I have explained tonight.

The Hon. M.J. ELLIOTT: The problem is that we have a motion which contains a principle that does not sound too bad, but what we do not have is any real explanation as to what resourcing is necessary and what will be achieved in relation to security, etc. It is worth noting that the recent study that was conducted into this building pointed out just how bad security is. Frankly, I think there is a real chance, without some changes, that security will in fact get worse with the opening of the centre doors. Without a firm proposal as to where the resources will come from and what changes will happen in relation to security, etc., the Democrats will not support the resolution.

Personally, I would like to see the Centre Hall doors open. As an entrance to Parliament House I suppose it is a better entrance and is more attractive to visitors to this place than the entrances that those people now use, but in the absence of a more concrete proposal the Democrats will not support the resolution.

The Hon. CAROLYN PICKLES: I thank members for their colourful contributions to this debate, particularly the Hon. Mr Davis's contribution which I think is probably one of his better efforts of late. However, logic did not really have very much to do with any of the contributions, apart from that of the Hon. Mr Elliott, and I consider he did make some sensible points. Historical events have made it difficult for people to adopt a sensible attitude to this matter: in the past traditionally there have been the two Houses of Parliament, and never the twain shall meet.

The Hon. Mr Stefani and the Hon. Mr Davis talked about straitened economic times. It seems to me it would be far more logical and cost effective if we in fact closed the two side doors and opened the main doors, and pooled the resources of the attendants that we presently have. It may well be that we shall need more attendants, but that is a matter for the Parliament to decide.

Members interjecting:

The Hon. CAROLYN PICKLES: Resources are available within the public sector; people could be redeployed down here.

The Hon. L.H. Davis interjecting:

The Hon. CAROLYN PICKLES: The Hon. Mr Davis is referring to another matter; I do not wish to comment about that. I am very disappointed that aspersions were cast against honourable members of another place. I think there was a lack of attention to the fact that the resolution was passed by the other place and it came to this Chamber to be dealt with not in a frivolous manner as was the case here tonight.

I consider that we should drag ourselves kicking, screaming and struggling into the latter half of the twentieth century and start to consider what is the most sensible way to deal with a Parliament where people who have no right to be there wander around the corridors and where items apparently go missing from the Library, because people wander around parts of the Parliament where they are not supposed to be. There needs to be far greater attention paid to security in this building, not just security of people's belongings or the belongings of the Parliament but security of members and staff who work in this building.

I consider that it is probably not correct that we should ask the attendants to play the role of security officers. I quite agree with the comments that were made by members opposite that the attendants are very overworked. I think that that is probably very true. I do not think it is possible for them to have their eyes on the side doors at all times.

However, it would be possible to have an arrangement whereby there is a more secure entrance to the building and to the corridors that lead into members' offices and to the Chambers.

It is about time that the responsibility for the situation rested with the Parliament. It is not good enough to say that, when there is a demonstration on the front steps, little old ladies—which is a very sexist remark; presumably little old men come here as well, Mr Davis—cannot get into the building. I understand that when a group wishes to hold a demonstration on the front steps of Parliament House arrangements have to be made with the Presiding Officers.

The Hon. L.H. Davis: So you would ban demonstrations? Is that what you are saying? Open the centre doors and close the side doors? What are you saying?

The Hon. CAROLYN PICKLES: When a demonstration has been arranged it would be possible to close the centre doors and open the side doors. That is quite possible. It is not impossible. I have never heard such absolute nonsense in all my life. Such difficulties! Members opposite are like a bunch of nineteenth century geriatrics. It really is about time that we started to deal with this situation sensibly.

The Hon. L.H. Davis: Your Government has lacked any coherence in its approach to dealing with Parliament House, and that is why we are voting against this measure. You know that.

The Hon. CAROLYN PICKLES: Parliament House is dealt with by the members who sit in this place. We have a committee that runs the Parliament, and the committee members who run the Parliament are members of Parliament.

The Hon. J.C. Burdett: What resources do they have?

The Hon. CAROLYN PICKLES: The resources they have are presumably the resources that they have had for many years. I cannot see that there would be much need for many further resources in order to open the centre doors.

The Hon. L.H. Davis: Why on earth are we debating this resolution in the Council—

The Hon. CAROLYN PICKLES: We are debating this resolution in this Council because it came from the House of Assembly, and we are dealing with it in the usual manner with which we deal with messages that come from the Lower House.

The Hon. L.H. Davis: It is extraordinary that a matter like this has to appear on the Notice Paper.

The Hon. CAROLYN PICKLES: Well, it has appeared, so we are dealing with it. The Hon. Mr Davis asks why we are dealing with it in this way. This resolution has been before the Council since 22 August. If members opposite wanted to deal with it expeditiously it would have required one speaker—instead of four—from the Opposition, one speaker from the Australian Democrats and one speaker from the Labor side. I would have thought that that would be quite sufficient.

I think it is about time that members in this place tried to deal with the situation sensibly, and tried to address themselves to the lack of security in Parliament House and tried to come to some kind of sensible accommodation. It is obvious that this resolution will not pass, but I hope that it is not forgotten. I hope that some of the members who are on the Joint Parliamentary Service Committee will address themselves yet again to this apparently very difficult question of whether to open the doors or not.

Resolution negatived.

MANUAL HANDLING REGULATIONS

Adjourned debate on motion of Hon. J.F. Stefani:

That the regulations under the Occupational Health, Safety and Welfare Act 1986, concerning manual handling, made on 27 September 1990 and laid on the table of this Council on 10 October 1990, be disallowed.

(Continued from 14 November. Page 1879.)

The Hon. I. GILFILLAN: The regulation dealt with the discussion that would arise if there was a problem relating to manual handling in the workplace and the Democrats had a concern on just one issue which was the right of an employee where there was a properly constituted health and safety representative with a supportive committee, and that particular committee and the representative had not chosen to ask the union to be involved in a discussion on the matter. In such a case, the original draft of the regulations allows for an individual employee to have the right to compel the employer to involve the union. I do not have any problem with the union being involved in safety matters, but I believe that we have a relatively well thought out procedure in the current legislation with the establishment of the occupational health and safety committees with the appropriate representatives. Where that is in place that is the way that decisions and issues should be considered.

I point out that, even where the employee loses the right to demand an invitation be extended to the union, there is nothing to prevent an individual employee who feels that the occupational health and safety representative has made a mistake or the issue needs to be further considered from taking the initiative directly to the union and some discussions can proceed. I indicated to the Minister that that was the problem I had with the regulation, and his department drafted an amendment which I understand was incorporated through the Subordinate Legislation Committee. So my objection was removed from the draft of the regulation that would apply.

That being the case, the concern I had earlier indicated about the regulations under the Occupational Health, Safety and Welfare Act dealing with manual handling was dispelled. Under those circumstances, I indicate that the Democrats will not support this motion.

The Hon. T.G. ROBERTS: I, too, oppose this motion. I do so on similar grounds to the Hon. Mr Gilfillan and point out to the Council that the opposition was based on a false premise. I do not blame the Hon. Mr Stefani for raising it in the Council, but it certainly shows some lack of understanding by some of the parties involved in the negotiations. Occupational health and safety committees as presently structured in most workplaces already have the right of involving their unions in occupational health and safety matters, whether it is through their occupational health and safety committees, or as the Hon. Mr Gilfillan pointed out, as individual members of unions.

I understand the Hon. Mr Stefani's concerns about the issues that may be raised on some sites. I think he primarily referred to the Remm site as being difficult in using occupational health and safety issues and turning them into industrial issues unnecessarily. I think that that matter has been raised in the Council in relation to other cases. I know that other individuals have raised the same problem with me over similar sorts of use of the occupational health, safety and welfare legislation. On the original introduction of the Act, members opposite showed some concern about the Act being used as a *de facto* strike weapon, with some legislative protection on occupational health and safety matters. On this side, we rejected those arguments on the basis

that we do not bring in legislation for bad employers, nor do we bring in legislation for those unions that do not use the legislation correctly and properly.

The original design for the legislation was to allow the occupational health and safety committees, through their representatives, to work out with employers those problems that existed in particular workplaces, and then they worked cooperatively together to negotiate their way through those problems to eliminate the risks associated with those industries. The problem that we are talking about at the moment is manual handling or the way in which heavy lifting is carried out, and it does not seem, on the surface, to be a huge problem. However, if members look at the industry figures on claims they will find that it is a key area in occupational health and safety, whereby a number of workers are injured over a particular year. Looking at the manual handling injury claims made to WorkCover in 1988-89 on an industry basis, we can see that agriculture had 275 claims to the value of $1.596 million; mining had 106 claims at $458 316; and manufacturing had 4 237 claims at $14 841 981, which is a major component of the manufacturing sector's claim on WorkCover. So members can see the problems associated with manual handling and, if they go through the whole list of industries, they will find the same sorts of disturbing figures.

The problems associated with manual handling, although appearing to be simple to overcome, need whatever resources and systems are necessary to try to eliminate them out of the WorkCover claims area, and that is not only for financial reasons. It is now fairly fashionable to be an economic rationalist and define everything in economic rationalist terms, but inherent in those problems associated with manual handling injuries—and most of them are back injuries—is a lot of pain and suffering, and the families of those injured are also affected. Then there is the dislocation in the industries concerned. There must be treatment by the medical profession, a long period of rehabilitation and hopefully a return to work in a normal way. I would hope that we would have a little bit more cooperation and understanding on how to handle the matters associated with manual handling and I believe the Government acted in the best possible way to try to eliminate out of the work force those problems associated with manual handling injuries.

I think the problems raised by the Hon. Mr Stefani were perhaps casting at shadows a little. In his statement to the Council, when moving for disallowance, the Hon. Mr Stefani argued that the regulation presently before Parliament was typical of bureaucracy gone mad because it required employers to consult with health and safety representatives, safety committees, employees and trade unions. I think members will find it is pretty hard to separate out of a particular workplace those people who are employees, members of trade unions and members of occupational health and safety committees, because in my mind they all wear the same uniform and they all have the same job to do. With regard to progressive employers out there who have an interest in eliminating not just problems associated with industrial relations generally but occupational health and safety specifically, I would have expected the cooperation of those progressive employers to consult with those workers whether they were regarded as safety representatives or just as members of the trade unions generally.

I know there is a structure under the Act and in some cases unions have themselves elected their own shop stewards to those occupational health and safety committees and they play the same role—of the industry shop steward and also of the occupational health and safety officer. In most cases there would be no argument between the employers and the unions about who had the right to call in whom to get advice. Specifically, in the first industry negotiations around occupational health and safety, it was agreed that unions could call in specialists for advice, whether they be national safety council representatives who were called in in the early days of the occupational health and safety agreements, whether they be specialists in chemical handling—and a lot of employers do avail themselves of outside consultants—or whether they call on other specialists. Those matters are worked out on site by employers, union members and occupational health and safety representatives to try to eliminate the hazards that exist in those industries.

In an interjection to the Hon. Mr Stefani during his contribution I commented that employers are already complying with the conditions that are outlined in the regulations prior to the disallowance, that the majority of employers are quite happy to work within the guidelines that are set and that they pride themselves on the relationships they build up through their occupational health and safety committees that generally improve their industrial relations programs on their own sites. So, with regard to those employers who did not do that—those who still had a confrontationist and patronising attitude to their employees, who tried to keep them in a position where knowledge was not being shared, with the employer having all the knowledge and the members on the shop floor having little or no knowledge, and who had no understanding of the Act and did not bring in specialists to assist them in negotiations with employers—their industrial relations practices were generally reflected in their attitudes to occupational health and safety.

I think that if one did a survey in South Australia—or Adelaide, if one wanted to do it locally—one would find that those employers who had a progressive attitude to industrial relations also had a progressive attitude to the elimination of workplace injuries. Their records are probably much better and their levies therefore much lower than those who had a patronising attitude to their employees, did not involve them in any workplace decisions and delivered their encyclicals from on high and then expected the employees to try to cooperate with them. That just does not work and I think the Act itself tries to bring about a cooperative spirit whereby employees and employers get together to try to work through their problems. I have no problems with the contribution that the Hon. Mr Stefani made about the proposed or existing regulations and trying to bring about a code of practice that supports consultation on manual handling and supports objectives of reducing injuries from manual handling problems in the workplace, but he went on to say that he did not support the legislation in its current form.

I happen to agree with the Hon. Mr Gilfillan that the regulation as it stands with its amendment covers all the practical problems that employers would face. It allows the flexibility for individual members not only to consult with their occupational health and safety representatives and the employers but to call in their union to broaden the information base that they require, if they are not completely happy. There is also provision for the employees to call in specialists to give them advice. If they do not do that in a work environment they will do it outside in a community environment anyway. There is a fair bit of evidence around to suggest that that is occurring more often than not in industries that are heavily polluting. Where victimisation by companies occurs on such sites and where there is little or no activity by unions to try to prevent the sort of in-house problems associated with broader community problems, individuals still have the right to go outside to bring

in specialists to give them advice. I would join the Hon. Mr Gilfillan in opposing the disallowance.

The Hon. J.F. STEFANI: I am somewhat disappointed that the points of view that have been put forward by the Hon. Mr Gilfillan and the Hon. Terry Roberts both have missed the very point that should be made. We now have a regulation that requires consultation with a union where the employee is a member of that union, but there is no requirement for consultation where the employee is not a member of the union, so we have a class of regulation that does discriminate in safety issues, if we like to take the point on board, and we have the very point which is now being raised and which is being put into a regulation, that people who are in the union have some additional protection, so to speak, and people who are not in the union are not protected.

For that reason alone, this regulation has a flaw in it, but the underlying reason why the involvement of the union was promoted is not sound, because it does involve a third party that by and large in my experience has in the past been obstructive in matters of safety, has created an enormous amount of havoc, particularly in the building industry, and has used safety issues to bring the site out on strike. However, with respect to the very point I made just a moment ago, the employees who are not members of a union are now discriminated against by the very regulation that the Government has produced saying that it is covering the interests of employees in the workplace.

That is what we have in this Chamber—discrimination in favour of unionists—and I cannot support that, because we are discriminating against employees who are employed in the agricultural industry, as the Hon. Mr Roberts has pointed out, and who are subject to injury, but they have no-one to consult; they cannot go to the union. That is their choice, but the point I make is that this regulation is discriminatory against those people and this side of the Chamber cannot support regulations that discriminate against a group of people in preference to others. We are of the firm view that if regulations are passed by Parliament they should be equal for everyone, and surely to goodness the people we have in the industries—

The Hon. I. Gilfillan: If there's a safety committee or safety representative—

The Hon. J.F. STEFANI: There is no safety committee or representative in small business.

The Hon. I. Gilfillan: If there is, it doesn't matter whether the employees are unionists or not; they are covered.

The Hon. J.F. STEFANI: That covers the point of the safety committee, if there is one. Where the safety committee is operating as a normal requirement of the Occupational Health, Safety and Welfare Act, where the number of people employed at the workplace requires the safety committee and the regulations have that proviso, that is fine. We are now talking about members of unions and non-members of unions. That is the very point I made, and I will stay with it.

Members interjecting:

The Hon. J.F. STEFANI: We are talking about small business. Thousands of small businesses which have fewer than five employees have no safety representatives and this very matter hits at that.

The Hon. T.G. Roberts interjecting:

The Hon. J.F. STEFANI: Simply in this way: if we are to discriminate against those employees, as this regulation does, the Opposition, and certainly I, will not support that sort of thing. I repeat that, where there is cooperation between the employees, employers and the relevant authority in dealing with occupational health and safety, namely, the Department of Labour, there is complete accord in the way that things should be done. I find it most objectionable to see discrimination introduced in any form of legislation or regulation. The Opposition has moved the motion for very strong reasons, and those reasons remain.

Motion negatived.

LOCAL GOVERNMENT ACT AMENDMENT BILL (No. 2)

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

The Hon. ANNE LEVY: I move:

That this Bill be now read a second time.

It is part of an ongoing effort to revise and update the Local Government Act, in a way which will consolidate the framework of the legislation governing local government more adequately to reflect the sector's contemporary methods of operation. More particularly, the Bill provides for the introduction to the Local Government Act of a number of principles and mechanisms, rather than prescriptive requirements, which aim at establishing standards of administrative and personnel practice comparable to those in operation in other spheres of government. The amendments are proposed within the context of innovative and exciting change in the relationship between State Government and local government, which will see the disbanding of the Department of Local Government and the devolution of signficant powers and responsibilities to the local government sector.

Local government has for many years asserted its right to full status as a sphere of government, with a relationship to the State similar to that of the relationship of the State to the Commonwealth. To date, the revision program for the Local Government Act has addressed the appropriate balance of powers and responsibilities for the State and local government sectors, with increasing emphasis on the devolution of such powers and responsibilities to local government, in order that it may legitimately undertake activities for its local communities, free from unnecessary State Government constraint. Of necessity, this balance must be achieved in a way which acknowledges the State Government's interest in a framework for the local government system, through the State legislation which establishes and delegates powers to local goverment.

It is, however, appropriate that the legislation sets general principles, rather than detailed requirements for the operation of local government. Such an approach is entirely consistent with the newly formalised understanding between State Government and local government, in which the two sectors will negotiate over the next 18 months the particular ways in which common goals, including the goals outlined in this Bill, will be achieved. The principles outlined in the Bill are intended as guiding rather than driving ones. They set an agenda, while enhancing the flexibility of councils to determine the processes by which the outcomes will be achieved, and in so doing, provide councils with a very broad and diverse range of options for responding appropriately to their individual community needs and expectations. The Bill proposes three major changes to the Local Government Act: the introduction of principles of administration and of personnel practice; the abolition of the need to obtain a certificate of registration to be eligible for prescribed positions; and the establishment of the Local Government Equal Employment Opportunity Advisory Committee.

I refer, first, to the principles of administration and personnel practice. These principles provide local government with standards of equity and accountability comparable to those of the other spheres of government. They define responsibility for the administration of a council and create a framework for local government operation to which both the sector and the community can look. The principles encourage councils to adopt flexible management systems and to operate in effective and efficient structures.

There is national agreement that principles of personnel practice, including equal employment opportunity principles, be incorporated into State legislation covering the local government sector. Such principles are already present in the Victorian Local Government Act, with Western Australia planning to introduce personnel principles as part of a review of its Act. The amendments introducing principles of personnel practice also reflect the Local Government Association's policy on human resource management and set a standard of fairness and propriety in the management of local government employees and officers.

These principles of personnel management reinforce fairness in council administration with reference to those aspects of an employee or applicant's characteristics which cannot be used as a basis for discrimination in employment. Age has been included as one such aspect, as it will be covered by the Equal Opportunity Act 1984 from next June. In association with the introduction of principles as outlined, the Act will also be ameded to require councils to prepare, adopt and publish an annual report, available to the public. Such a requirement is consistent with other spheres of government, whose decision makers are similarly accountable but, in their case, to Parliament. However, in the light of the new State Government-local government understanding, the form and content of annual reports will be a matter for regulations developed in conjunction with the Local Government Association, in order to ensure that such reports are appropriate to the needs of local communities.

The Bill also proposes to define the functions and responsibilities of Chief Executive Officers, to include implementation and monitoring of the principles as outlined in the Bill. General principles relating to the conduct of officers and employees are also included in the amendments.

I refer now to the abolition of certificates for prescribed positions. Originally, the Bill proposed to abolish only the need for certificates of registration for the prescribed position of Chief Executive Officer. The discussion paper in which the proposed amendments were first canvassed, and the extensive consultation program conducted throughout the State, elicited many responses which indentified this proposal as being too cautious. While support for abolition of certificates of registration was certainly not universally supported, many submissions from councils and local government organisations urged the Government to take the initiative in the area of qualifications, and to remove the present restrictions for all the positions which currently require registration.

In the spirit of devolution, and to support the local government sector in its capacity to make its own decisions about the people it employs, while of course observing the principles of personnel practice outlined in the amendments, it is now proposed that the professional standard of council administration will be protected through membership of professional bodies where appropriate. The relevant professional bodies associated with positions other than that of Chief Executive Officer have indicated their support for this move, and have provided assurances as to their capacity to monitor membership of their organisations.

In the case of Chief Executive Officer positions, it is appropriate that councils have the authority to employ people who, in their judgment, have the appropriate skills and experience for the particular position in their council. In some cases, councils will be seeking to employ people with a certain mix of skills and experience which may not be available to them only from the pool of people with current certificates of registration. There is no intention implied in the amendments to dilute the quality of the Chief Executive Officer ranks, but rather to expand the options available to the local government sector, which have until now been somewhat constrained by the existing system.

I now refer to the Local Government Equal Employment Opportunity Advisory Committee. The Bill proposes the establishment of the Local Government Equal Employment Opportunity Advisory Committee to be chaired by the Commissioner for Equal Opportunity. It is recognised that some steps are currently being taken in the local government sector to effect principles of equal employment opportunity, and that councils are currently subject to State equal opportunity legislation. About 50.3 per cent of salaried employees of councils are women. However, there is a marked concentration of women in traditional occupations: 80 per cent of clerical staff are women, and 75 per cent of librarians and community service officers are women. In senior management, however, 90 per cent of positions are held by men. This concentration of women in clerical and service related positions is contrasted with the structure of the work force of the local government sector throughout Australia, in which around 56 per cent of clerical and service positions are held by women, and with the Australian work force as a whole, in which 69.7 per cent of clerical, service and sales positions are held by women.

Women are not the only group poorly represented in the work force of the local government sector. Not only does this situation disadvantage individuals in the work force, but also it seriously limits the flexibility of the sector in its role in meeting the needs of local communities by limiting its work force capacity. The impact of equal employment opportunity in the local government sector in South Australia has been minimal compared to other States. Both Federal and State Governments have for a considerable time now undertaken policy initiatives and practical programs designed to redress imbalances in the work force and in access to services. It is appropriate that local government, as a sphere of government, adopt a similar approach.

It is therefore intended that the development and implementation of equal employment opportunity programs will be monitored. The Local Government Equal Employment Opportunity Advisory Committee will consist of four members, aside from the Chair, two of whom will be nominated by the Local Government Association, one by the Municipal Officers Association, and one by the Australian Workers Union. The functions of the advisory committee will be to advise and assist councils in developing and implementing equal employment opportunity programs, to monitor councils' implementation of these programs, and to promote awareness within local government of the purposes and principles of equal employment opportunity.

Concerns were expressed in the submissions made to us and at the public meetings about legislated limits being placed on the sector's autonomy as employers, by the imposition of detailed and specific requirements within equal employment opportunity programs. Councils submitted that their flexibility to meet the needs of their local communities would be restricted by such requirements. While such concerns do to some extent reflect misunderstanding of the intent of equal employment opportunity legislation, it is

important that these misunderstandings are allayed. By structuring the legislation to allow for negotiation of the content of the regulations under the enhanced State Government-local government relationship, the sector itself will have the opportunity to develop its own standards and requirements within the general principles of the legislation.

By locating the advisory committee under the aegis of the Commissioner for Equal Opportunity, the sector's concerns about 'doubling up' in the area of equal employment opportunity can also be allayed. The reporting mechanisms for councils' equal employment opportunity programs have been simplified, and utilise the existing structures within the Equal Opportunities Commission.

The Local Government Association, and those councils that supported the introduction of specific legislation regarding equal employment opportunity, stressed that local government will need education and support in the introduction and implementation of equal employment opportunity programs. In addressing this request, the State Government will employ a consultant in the coming months to work with local government in an educative and developmental capacity.

As part of the new understanding between State Government and local government, the State Government will be assisting local government to develop a more flexible work force with a greater capacity through the implementation of equal employment opportunity programs. These major changes represent the principal features of the Bill. An extensive consultation process accompanied the development of the proposals, including the distribution of a discussion paper, a circular to councils, and a series of seminars in metropolitan and country locations. A total of 57 submissions were received, in response to the discussion paper and the seminars. A total of 130 people attended the four seminars, mostly Chief Executive Officers and Chairs of councils.

While it is true that there were specific objections to certain aspects of the proposals as first drafted, the general intent of the legislation has attracted broad sector-wide support. It has been suggested that at this time of negotiation and change to the structure of the relationship between State Government and local government, such a Bill should be put aside and any principles be introduced as a part of any legislative framework which may be established as a result of these negotiations in 18 months time. However, the Bill has now been significantly altered to take account of the new State Government-local government understanding, as well as being developed in the course of the consultation process, and I am perfectly happy to introduce the Bill now with a view to continuing its development over the Christmas break. It is obviously not my intention to debate the Bill at this point, but I wish to have the issue of principles put on the agenda for negotiations which will occur as part of the development of an agreed overall framework for local government. I seek leave to have the detailed explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clause 1 is formal.

Clause 2 provides for the measure to be brought into operation by proclamation.

Clause 3 amends the interpretation section of the principal Act. The clause inserts new definitions of 'engineer', 'equal employment opportunity program', 'merit' and 'selection processes'. The new definition of 'engineer' of a council is required in view of the removal of the provisions contained in section 67 relating to the appointment of an engineer. 'Equal employment opportunity program' is defined as a program designed to ensure that all persons have equal opportunities with others in securing employment with a council and subsequent promotion and advancement and in other respects in relation to employment with the council. 'Merit' and 'selection processes' are defined in the same terms as under the Government Management and Employment Act 1985.

Clause 4 inserts into Division I of Part III of the principal Act (general nature of council's responsibilities) a new section 35a setting out general management functions and objectives for councils. Under the new provision, the functions of a council are to include:

(a) the determination by the council of policies (not inconsistent with the Act or any other applicable law) to be applied by the council in exercising its discretionary powers;

(b) the determination by the council of the type, range and scope of projects to be undertaken by the council; and

(c) the development by the council of comprehensive management plans, budgets, financial controls and performance objectives and indicators for the operations of the council.

The new section also provides that the operations and affairs of the council should be managed:

(a) in a manner which emphasises the importance of service to the community;

(b) so as to achieve and maintain operational flexibility and responsiveness to changes in policies and priorities;

(c) so as to enable decisions to be made, and action taken, without excessive formality and with a minimum of delay;

(d) so that administrative responsibilities are clearly defined and authority sufficiently delegated to ensure that those to whom responsibilities are assigned have adequate authority to deal expeditiously with questions that arise in the course of discharging those responsibilities;

(e) with the goal of continued improvement in efficiency and effectiveness;

and

(f) so that resources are deployed in a manner that ensures their most efficient and effective use.

Clause 5 inserts into Part III of the principal Act (which contains the general provisions relating to councils) a new Division VII relating to annual reports. Under the new provision, a council is to be required to prepare, on or before a day (to be fixed by regulation) in each year, a report containing information and documents relating to the operations of the council. The information and documents to be included in such a report are to be detailed in the regulations. A report must, under the new provision, be made available for inspection (without fee) by any member of the public at the principal office of the council during the hours for which the office is open to the public. In addition, a member of the public is to be entitled, on payment of a fee fixed by the council, to obtain a copy of the report or any part of the report.

Clause 6 makes a consequential amendment to the heading to Division I of Part VI of the principal Act.

Clause 7 amends section 66 of the principal Act which deals with the chief executive officer of a council. The section is amended so that it is clear that the chief executive officer's responsibilities include, in addition to the respon-

sibility of executing the decisions of the council, responsibility to the council:

(a) for the efficient and effective management of the operations and affairs of the council; and

(b) for giving effect to the general management objectives (contained in the proposed new section 35a) and the principles of personnel management prescribed by proposed new section 69b (for which see clause 8).

The clause also removes subsections (5), (5a) and (6) of section 66 which provides for the qualifications for appointment to the office of chief executive officer or for an acting appointment to that office.

Clause 8 provides for the repeal of section 67 and Division II of Part VI of the principal Act and the substitution of new sections and Divisions. The proposed new section 67 provides that the functions of the chief executive officer are to include the following:

(a) the proper organisation of the administration of the council;

(b) the implementation of management plans and budgets determined by the Council, and the development and implementation of other management and financial plans and controls;

(c) the appropriate division of responsibilities between, and assignment of duties to, the officers and employees of the council;

(d) the establishment of effective procedures to ensure that the use of resources of the council is properly controlled and audited;

(e) the development and implementation of necessary management and staff training and development programs;

(f) the development and implementation of health and safety programs for the officers and employees of the council.

Proposed new section 68 provides for delegation by the chief executive officer of a council.

Proposed new section 69 requires the chief executive officer to present to the council, on or before a day (to be fixed by regulation) in each year, a report containing information and documents (to be detailed in the regulations) relating to the performance and discharge of his or her functions and responsibilities and the operations of the council.

Proposed new section 69a provides for the appointment of officers and employees other than the chief executive officer. The provision replaces section 67, the provision currently dealing with this matter, but does not repeat the present provisions of that section which deal with the appointment of an engineer or overseer of works and the qualifications for those offices and other prescribed offices. As stated above, Division II which deals with the Local Government Qualifications Committee and certificates of qualification for appointment to prescribed offices is repealed. No new provisions are proposed that would require particular qualifications for appointment to offices in local government administration.

Proposed new section 69b sets out the following principles of personnel management which are to be observed in relation to employment in the administration of a council:

(a) that all selection processes must be directed towards and based on a proper assessment of merit;

(b) that no power with regard to personnel management may be exercised on the basis of nepotism or patronage;

(c) that officers and employees must be treated fairly and consistently and must not be subjected to arbitrary or capricious administrative acts or decisions;

(d) that there must be no unlawful discrimination against officers or employees or persons seeking employment in the administration of a council on the ground of sex, sexuality, marital status, pregnancy, race, physical impairment, intellectual impairment, age or any other ground nor may any form of unjustifiable discrimination be exercised against officers or employees or persons seeking such employment;

(e) that officers and employees must be afforded equal opportunities to secure promotion and advancement in their employment;

(f) that officers and employees must be afforded reasonable avenues of redress against improper or unreasonable administrative acts or decisions;

(g) that officers and employees must be employed in worthwhile and constructive employment and be afforded proper access to training and development;

(h) that officers and employees must be provided with safe and healthy working conditions;

and

(i) that officers and employees must be remunerated at rates commensurate with their responsibilities.

Proposed new sections 69c to 69f deal with equal employment opportunity in relation to employment with councils.

Proposed new section 69c provides for the establishment of a Local Government Equal Employment Opportunity Advisory Committee. Under this provision, the Committee is to consist of the Commissioner for Equal Opportunity (who is to chair the Committee), two persons nominated by the Local Government Association of South Australia, one person nominated by the Municipal Officers Association of Australia (South Australian Branch) and one person nominated by the Australian Workers Union (South Australian Branch). This new provision is to expire on 30 June, 1996.

Proposed new section 69d sets out the functions of the Local Government Equal Employment Opportunity Advisory Committee. These are:

(a) to advise and assist councils in developing and implementing equal employment opportunity programs and, for that purpose, to devise guidelines and objectives for councils;

(b) to monitor the measures taken by councils to implement their equal employment opportunity programs and any other related initiatives taken by councils;

(c) to promote awareness and acceptance within local government administration of the purposes and principles of equal employment opportunity;

(d) to take such other action as it considers appropriate to promote equal employment opportunity within local government administration.

This proposed new section is also to expire on 30 June 1996.

Proposed new section 69e provides that the chief executive officer of a council is responsible to the council for developing and implementing an equal employment opportunity program relating to employment with the council and for developing and implementing other initiatives to ensure that officers and employees of the council have equal opportunities in relation to their employment.

The proposed new section also requires a council to comply with such requirements relating to equal employment opportunity as are prescribed by regulation in relation to

all councils or a class of councils to which the council belongs.

Proposed new section 69f provides that a council must submit to the Local Government Equal Employment Opportunity Advisory Committee for its advice and comment a draft equal employment opportunity program for the council and present to the Committee an annual report containing prescribed information relating to the council's equal employment opportunity program and any other measures taken by the council in relation to equal employment opportunity. The draft program is to be submitted to the Committee before the expiration of one year from the commencement of this provision and the annual report is to be presented to the Committee on or before the prescribed day in each succeeding calendar year. This proposed new section is also to expire on 30 June 1996.

Clause 9 provides for the insertion of a new section 81a setting out general principles relating to the conduct of officers and employees of councils. These principles are as follows:

(a) that officers and employees must comply with the provisions of the Act and any other Act governing their conduct;

(b) that officers and employees must be conscientious in the performance of official duties and scrupulous in the use of official information, equipment and facilities;

(c) that officers and employees must, in their dealings with the public, members of the council and their fellow officers and employees, exercise proper courtesy, consideration and sensitivity;

(d) that officers and employees must not conduct themselves in their private capacities in a manner that would reflect seriously and adversely on their employer or their fellow officers and employees.

Clause 10 makes an amendment to section 162 of the principal Act relating to the required qualifications for council auditors. The amendment is consequential to the amendments removing the provisions relating to the Local Government Qualifications Committee and the qualifications for various offices in local government administration. Under the amendment a council auditor will be required to be either the Auditor-General or a person who holds a practising certificate issued by the Australian Society of Certified Practising Accountants or The Institute of Chartered Accountants in Australia rather than, as at present, the holder of an auditor's certificate of registration issued by the Qualifications Committee.

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

CONSTITUTION (ELECTORAL REDISTRIBUTION) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 4 December. Page 2259.)

The Hon. J.C. BURDETT: I support the second reading of this Bill with a great deal of pleasure. It has been a long time coming. The Dunstan Bill in 1975, which was said to achieve one vote one value, probably did intend to achieve equity, but certainly that did not happen, because just having the same number of electors in every electorate does not mean that you are going to get equity between the political parties, and that has not been the case. Every election which has been conducted since that time has disadvantaged the Liberal Party.

The reasons were the locking up of Liberal votes in particular electorates and the criteria which were set out in the Act. There was one criterion which disadvantaged the Liberal Party, and there was one which was not there which disadvantaged the Liberal Party. The one that was there which disadvantaged us was the one that required that we stick as close as possible to existing electorate boundaries. I do not really know the reasons why that did disadvantage us, but it certainly did, in fact. However, the main problem was that there was no criterion which related to equity: there was no criterion which said that the boundaries ought to be drawn by the Electoral Districts Boundaries Commission to try to ensure, as nearly as was practicable—of course, we could not be certain about this—that the party which secured 50 per cent plus 1 of the two party preferred vote had a reasonable chance of forming a government. That was not there.

As the Hon. Mr Lucas said, when he spoke in the first two deliberations of the Electoral Districts Boundaries Commission, particularly the first one, it was argued by the Liberal Party that that criterion ought to be available as an additional ground. In my view, it was correctly held on the wording of the Act at that time by the commission that that could not be taken into account.

The first one of those two commissions which sat decided that this could not be taken into account at any time whatever. An attempt was made to talk about voting patterns, to talk about the question of equity between the parties, and it was ruled right of order by the commission and, as I say, I believe correctly on the wording at that time.

As I said at the outset, we have been waiting a long time and we have come a long way, because about 18 months ago the Hon. Mr Griffin introduced a Bill into this Chamber to provide that it be a criterion which the commission could take into account that the Party which obtained 50 per cent plus 1 of the two party preferred vote should have a reasonable chance of gaining government. That had been ruled right out of order before and, as I say, correctly, on the Act as it was worded. However, the Hon. Mr Griffin introduced the amendment to say that it could—just could—be taken into account. That did not pass. It was not supported by the Government. It was almost laughed out of court, one could say.

As I say, as a result, at least partly, of the select committee which was held in the other place on this issue of boundaries, that has entirely changed and the Government has completely changed its stance. Whereas 18 months ago the Hon. Mr Griffin could not get any support for his Bill, just asking that this be one of the criteria, now we have come to the situation where it is the overriding criterion: it is the primary criterion, and that is set out in the Bill which we have before us now. So, we have before us now a Bill which sets out, as the overriding criterion, that there be equity between the political Parties, that it be an overriding provision, a primary criterion, that the Party which gets 50 per cent plus 1 of the two party preferred vote should have a reasonable chance of governing. It would be quite an impossible task to give the commission that it guarantee this position. Of course, there can be no guarantee, but previously equity was not a matter it was allowed to take into account at all. Now, not only can it take it into account, but it is the primary consideration. To me this is a very great advance.

The other criterion I mentioned before, which fortuitously, probably, did militate against the Liberal Party, was

the one that existing boundaries ought to be followed as closely as practicable.That has been removed. So, we do have a very great advance on what the situation has been previously and it is to the Government's credit that it has eventually reached this situation, where it has acknowledged that it can no longer hide behind the 1975 position. It is also to the credit of the media that after the last election it made very clear that we gained over 52 per cent of the two party preferred vote but did not get to a position where we could form a government in the Lower House. That position was raised by the media and it persisted with it.

It is to the Government's credit that it has now come to this position. We have reached a stage where we are going to get equity, at least a position where the Boundaries Commission is going to be able to take it into account. As I said before, there can be no guarantee. There is no way of guaranteeing that. It would be quite impossible for us to expect that the commission could guarantee that, but it is reasonable to expect that the commission can take equity into account. Now it can, and I believe that we have a very good Bill before us and I am very pleased to support it.

The Hon. BERNICE PFITZNER: Much has been written and much has been said about the best and fairest electoral system for South Australia. I would be reluctant to offer my own opinions but for the fact that the experts cannot reach any degree of agreement on the subject. There are, I perceive, three basic electoral systems favoured by different individual groups. They are, first, the single member electorates; secondly, the multiple member electorates, together with proportional representation; and, thirdly, a combination of single member electorates and a top-up system to ensure that the party with the greatest popular support will govern. The favoured system in the Lower House should complement an Upper House, which is currently elected on a proportional representation basis, from lists of candidates chosen by the political Parties.

Each of the three systems has its good points and its bad points. First, the single member electorates are attractive in that each electorate elects and is represented by a member who is seen as the most popular choice in that electorate. However, the member will often achieve his or her majority of votes only after the distribution of preference votes of other and minor Party candidates. The single member electorate system is unattractive in that the siting of the electoral boundaries can so very easily be maintained or manipulated so as to give an unfair advantage to one Party over another.

A Party which receives a comfortable overall majority of votes may well lose an election if the electoral boundaries are such that it wins a few seats by a handsome majority and loses a large number of seats each by a relatively small number of votes. This is the case in South Australia at present. Because of the current distribution of electorates, because of the demography and because of the geographical location of electoral boundaries the value of a vote in the election of Government has had a value higher than one if one voted for the ALP and less than one if one voted for the Liberal Party. This has been mainly the case in South Australia since 1975. The proposed referendum seeks to address this lack of fairness so that a Party achieving greater than 50 per cent of the popular vote is likely to win Government.

Secondly, multiple member electorates are attractive in that each electorate elects and is represented by several members. A number of members elected for a given Party will be by proportional representation. This system is theoretically attractive in that a large proportion of voters in each electorate will succeed in electing at least one representative from their own Party. In practice, this system is much less attractive in that it will frequently result in a minority Government with the minor Party or Parties holding the balance of power. Such a situation can be a major problem for the effective running of a Lower House. Countries and States are not well run when the tail wags the dog.

Thirdly, the combination of single member electorates and a top-up system to ensure that the Party with the majority vote achieves Government is attractive in that it is the only one which guarantees that the Party receiving the majority share of the two Party preferred vote will in fact have the numbers in the Lower House to govern. With this system the electorate as a whole will get the Government that the majority desires.

To implement this system would require an appreciable reduction in the number of single member electorates since the taxpayers should not be expected to finance more politicians than they do already. A reduction from 47 to, say, 42 electorates would allow, say, five seats to be appointed from Party lists on a proportional representation basis. The top-up allocation of members could easily be determined from the same election which determined the selection of members for the single member electorates. However, in West Germany where such a system works and apparently works well, the electorate votes, I understand, separately for the individual members and for the Party lists.

Unfortunately, any reduction in the number of electorates would be initially unpopular with politicians. However, there are ways around all problems. For instance, in a transitional period, the members whose electorates cease to exist because of the redistribution could have priority listing on their Party's top-up list.

Of course, all this is pie in the sky at this point in time: the forces are moving too fast in an alternative direction. The Electoral Commissioner has an unenviable task in front of him, not only for the next election but also for each and every subsequent election. The sad truth of the matter is that he will not always succeed in manipulating a fair result. As Dr C. Hughes, Commonwealth Electoral Commissioner (recently retired), said in his paper to the Third Federalism Project Conference in 1982, 'equality (of numbers in each electorate) and fairness are not synonymous terms'.

It is because of this, I believe, inevitability of further unfair electoral outcomes that I raise this fourth system—a modification of the well-tried West German system. Because of South Australia's unique geography, this system will almost certainly have to be seriously considered in the future. It is a pity, really, that this fourth option is not being actively considered now. An introduction of such a system might have saved the taxpayer some $3 million to $4 million in the immediate future, and many more millions in the years to come.

I believe that the best electoral system is one that ensures that every vote cast in an election has an equal political value in the election of the Government. I believe the last option can achieve this. However, I support the second reading of the Bill because any changes in the criteria can only reduce the huge advantage the ALP has had for a long time by virtue of the present distribution of electorates.

The Hon. L.H. DAVIS: I also support the second reading of this Bill. Few would have believed 12 months ago that it would have been possible for such a measure now to be before the Parliament. The fact that we are debating such legislation this evening reflects on the political reality of the situation; that this Government has been dragged screaming to recognise, albeit unwillingly, that political justice should

not only be done but should be seen to be done in South Australia.

The Government is long on such notions as social justice but it certainly has been very short on the notion of political justice over the past decade or two. Any student of politics who has followed the South Australian State political scene over the past two decades would be well aware of the political advantage that was wrung out of the so-called playmander by the then Leader of the Labor Party, Don Dunstan. It was a matter of great concern to the Labor Party that there was the so-called playmander—a matter of such moment and of such concern that in fact there were protests in the streets and on the steps of Parliament House, and there were public debates on the matter.

My recollection of that time was that certainly the Labor Party gained the far better part of that argument because, although two decades have passed, the Hall Government, which had been elected to office with some 38 per cent to 39 per cent of the primary vote, was seen to be governing with a minority of the vote; and in 1968 the then Leader of the Opposition, Don Dunstan, made much of that fact.

However, with the redistribution of boundaries, with the increase in the number of House of Assembly seats from 39 to 47 in the early 1970s, we certainly had a Constitution Act that was based on the notion of electoral justice. At the time the majority of Liberals in the Legislative Council were nervous about the limitations imposed on electoral commissioners by the criteria which had to be used in drawing up electoral boundaries from time to time. In particular, there was the requirement that they should take notice of existing electoral boundaries.

In the time since 1970 there have been two redistributions, an increase in the size of the House of Assembly and a redrawing of electoral boundaries in a most dramatic fashion. We have had an opportunity to see the system at work. It is true that in Tom Playford's day there were 26 country electorates for a population, as I remember, of 180 000 voters. There were 13 city electorates for a population of some 320 000 voters. The smallest seat in the country in the 1960s was Frome with some 3 000 electors. The largest seat in the metropolitan area was the seat of Enfield, with an electorate population of 41 000 voters. There were gross distortions in the electoral system in the 1950s and the 1960s. I would not deny that fact. It is to the credit of the Hall Government and the Dunstan Government, between them, that that wrong was righted.

Of course, the situation which existed in 1968 was totally reversed. Whereas there were 26 country electorates and only 13 city electorates, with the enlargement of the House to 47 electorates, there were 28 metropolitan seats and 19 country seats. So at that time of dramatic change, the number of seats in the metropolitan area more than doubled and there was a 25 to 35 per cent decrease in the number of country electorates. That was political justice. However, over the past two decades we have had the opportunity of seeing the system at work. We have had redistributions of those boundaries in both 1976 and 1983.

Of course, the change in the length of time for House of Assembly elections from a maximum three year to a maximum four year term introduced a distortion in the redistribution process which no-one foresaw at the time that four year term first came into existence in 1985. Because of the quirk of the Constitutional Act with respect to redistribution, it meant that the redistribution of electoral boundaries conceivably would have taken place at an election held as late as 1998. In other words, 15 years would have elapsed between the 1983 redistribution of boundaries and the subsequent redistribution taking effect. That, of course, compared unfavourably with the nine year span between the Boundaries Commission's report in 1976 and the 1985 election, with new boundaries which had been set by the commission in 1983. So that quirk, which was not recognised by either Party at the time we debated the four year term, meant that at the last State election held in November 1989 there were severe distortions in the number of voters, in outer metropolitan seats in particular. Those distortions could well have carried through for another election.

Immediately after the 1985 election, the Liberal Party recognised the problem and called upon the Government repeatedly to do something about it. It is no credit at all to the Bannon Labor Government that it refused point blank to redress the situation. My colleague, the Hon. Trevor Griffin, the then Leader of the Liberal Party, Mr Olsen, and I made great play of that on more than one occasion. But the Labor Government's vision of political justice was so dimmed at that stage that it simply ignored what was a very genuine difficulty, a quirk, an anomaly, which had been created as a result of a switch to four year terms.

When we went to the last election with a very definite policy for electoral reform, the Bannon Government was left without a feather to fly with. It is history now that just over 12 months ago it won an election, however unconvincingly. It is also history now that a select committee established in another place forced the Bannon Government, screaming, to recognise that a reform of the existing system to accommodate a redistribution before the next election and also an amendment to the Constitution Act which required a referendum to ensure that there were regular redistributions, was certainly the lesser of two evils.

The other option the Bannon Government recognised was the Hare-Clark system, a version of multi-member electorates, which one would suspect, if it had come to the crunch, would have received the endorsements of independents in another place and certainly the Australian Democrats in this Chamber. There is nothing so likely as to lead to a wilderness of single political instances than a multi-member electorate which can spawn single issue candidates and can enable smaller Parties with less political support—such as the Australian Democrats—to have a number of members and inevitably, invariably would hold the balance of power.

The Tasmanian election of 1989 reflected fully on the vagaries of the Hare-Clark system, which to some political students is better known as the harebrain system. The Hare-Clark system provides in Tasmania for five electorates each with seven elected members. In what is a very complicated voting system, each Party puts up a slate of candidates and the names on those voting papers are rotated so that no-one is given the benefit of a donkey vote. The system is also further complicated by the fact that, if one of those members elected retires or dies during his or her term of office, the ballot papers which have been kept from the previous election are recounted to determine who was the next successful candidate to replace the person who has retired or died. It is a complicated system; that is the polite description.

It is not a system that necessarily guarantees electoral fairness and I am sad that I do not have the opportunity of actually examining the results of that 1989 Tasmanian election, because my memory is that the Liberal Party received the overwhelming majority of support—my memory is that it was about 45 to 46 per cent—but received rather less a percentage of the seats and the Labor Party, which received about 34 per cent of the vote, snuck into power with the support of the Greens, which enjoyed an extraordinary vote—I suspect, a one off vote—of some 16

or 17 per cent. So, there was a distortion in that vote. The Hon. Ian Gilfillan might well say it is democractic but in fact, if one examines the multi-member electorate system of Tasmania, one finds that the results do not necessarily guarantee that the political Parties receive the same percentage in seats as they do in votes. Quite clearly, that can be demonstrated mathematically, and the Liberal Party in Tasmania can consider itself hard done by that it in fact lost that vote.

If we examine the past few elections that have been held in South Australia on a two Party preferred basis—

The Hon. I. Gilfillan: Which two parties?

The Hon. L.H. DAVIS: The two Party basis, the Hon. Ian Gilfillan would well know, involves the two major Parties and preferences in South Australia, as again I suspect even the Hon. Ian Gilfillan would know, are distributed so that we can ascertain—

The Hon. I. Gilfillan: If they were distributed between the Liberal Party and the Democrats, we'd whack you. If it had been on a two Party preferred vote between the Democrats and the Liberal Party, we would have beaten you hands down.

The Hon. L.H. DAVIS: I really think the Democrats should be redistributed. Let us look at the voting over the past few years. In 1970 the Liberal Party received 46.9 per cent of the vote and won 20 out of the 47 seats. In 1973 the two Party preferred vote for the Liberal Party was 45.7 per cent and 21 seats were won by the Liberal Party and the National Party combined. In 1975 the Liberal Party won 50.8 per cent of the vote but won only 23 of the seats. That was of course a reflection of the fact that there were Liberal Party candidates and Liberal Movement candidates but, even so, 1975 was an interesting example, where the Liberal Party had polled nearly 51 per cent of the vote but did not get a majority of seats in coalition with the Liberal Movement and the National Party.

In 1977 the Liberal Party and the National Party—and I guess we can count Robin Millhouse who was an Australian Democrat as an anti-Labor person at that time—received 46.6 per cent of the vote and 20 seats. In 1979 the Liberal Party received 55 per cent of the vote when the Hon. David Tonkin was swept into the Premiership with the biggest two Party preferred vote in the history of South Australian politics. With that 55 per cent of the vote he won only 24 seats in his own right and had one National Party member and again an Australian Democrat, Robin Millhouse. So just 26 seats were won out of 47. That is a remarkably low figure when one remembers that in the preceding years the Labor Party had won 26 and 27 seats quite regularly with only 51 or 52 per cent of the vote.

Then in 1982 the Liberal Party vote came back to 48.5 per cent for 22 seats and in 1985 it fell to 47 per cent for just 18 seats, including National Party and Independent Liberal seats, before in 1989 receiving a very creditable 52 per cent of the vote and yet effectively electing only 23 of the 47 members in the House of Assembly. That quite clearly demonstrates to my mind that there have been vagaries in the system which need correction. Those anomalies are very clear and obvious and they can be demonstrated statistically.

For example, in the elections of the past few years we had the remarkable situation in 1985 where the number of electors on the roll in country electorates was greater on average than the number of members on the roll in the metropolitan electorates. In 1985 the 14 country seats had an average of 19 306 members, while the 33 metropolitan seats had just 19 249 electors.

That is a remarkable fact and quite clearly takes no account of the criteria set down in the Constitution Act for the drawing up of electoral boundaries. The tyranny of distance obviously faces many of the country members of Parliament, who are predominantly Liberal members. Certainly, the fact that there is a 10 per cent tolerance above or below quota is inserted into legislation for the express purpose of reflecting that fact and also of reflecting the fact that electorates grow at different rates and that there are some electorates in decline just as there are some increasing at a rapid rate. So, I think history proves that the existing system has been defective; the Bannon Government, having been slow to correct it before the last election, has at least recognised the error of its ways by introducing this amendment to the Constitution Act.

I welcome the Constitution (Electoral Redistribution) Amendment Bill, because it is a progressive measure. It is much more sensible to re-work the existing system than to move to a dramatically different system, such as multiple member electorates. Certainly, some argument has been advanced that the anomaly that may exist at the end of election night where one Party has a majority of votes but not a majority of seats can be corrected by the top-up system of West Germany.

It was interesting that the select committee, while refraining from commenting at length on that point, noted that it was certainly an option which should be kept alive for further review perhaps at a later stage.

Clause 3 seeks to repeal section 83 of the Act and to insert a new section 83 (1) relating to electoral fairness and other criteria. It provides as follows:

> In making an electoral redistribution the commission must ensure, as far as practicable, that the electoral redistribution is fair to prospective candidates and groups of candidates so that, if candidates of a particular group attract more than 50 per cent of the popular vote (determined by aggregating votes cast throughout the State and allocating preferences to the necessary extent), they will be elected in sufficient numbers to enable a government to be formed.

That quite clearly is a very strong direction to the Commissioner that this is a primary objective of any redistribution. In making a redistribution, the Commissioner must have regard, as far as is practicable, to the desirability of making the redistribution so as to reflect communities of interest of an economic, social, regional or other kind. That clearly picks up an already well defined practice of Commissioners. It has to reflect on the population of the electoral district, the topography of areas within which new electoral boundaries will be drawn, the feasibility of communication between electors affected by the redistribution and their parliamentary representative, and the nature of substantial demographic changes that the commission considers likely to take place in proposed electoral districts between the conclusion of its present proceedings and the date of the expiry of the present term of the House of Assembly.

Those criteria have been agreed to. There has been much discussion and debate over a long period of time. I think the fact that they have been agreed to, and with the companion Bill—an Act to provide for a submission of the Constitution (Electoral Redistribution) Amendment Bill, styled the Referendum (Electoral Redistribution) Bill—I believe that South Australia can look forward to electoral justice in the future. Certainly in these straitened times, electors may well be forgiven for asking, 'Why is a referendum necessary in 1991 at a cost of $2 million-plus to the taxpayer?'

The answer to that, sadly, is that this Government had the opportunity of doing just that at the 1989 election. It was not for want of trying by the Opposition that this

Government was not aware of that option. I am disappointed to think that in these difficult times the $2 million is being wasted on what is undeniably a very necessary measure. The sadness is that the referendum was not conducted 12 months ago. However, better late than never.

I am pleased to see that, after a long period of discontent about the seeming injustice of the electoral laws, the matter has been redressed and that we can look forward to an election in 1992, 1993 or 1994 which at least will provide the Liberal Party with an even chance of winning it. That is an advantage which it has not enjoyed for many years.

Bill read a second time.

The Hon. I. GILFILLAN: I move:

That it be an instruction to the Committee of the whole on the Bill that it have power to consider new clauses relating to the number of members of the House of Assembly and Assembly electoral districts.

Motion carried.

In Committee.

Clause 1 passed.

New clause 1a—'Number of members of House of Assembly.'

The Hon. I. GILFILLAN: I move:

After clause 1, insert new clause as follows:

1a. Section 27 of the principal Act is repealed and the following section is substituted:

27. The House of Assembly consists of the following number of members—

(a) until the first general election of members of the House of Assembly after the commencement of this section—47 members;

(b) as from the first such general election—45 members.

I intimate to the Committee that, if I am unsuccessful with this new clause, I will not proceed with the remainder of my amendments. If the Committee will bear with me, I will address all the amendments at this stage.

As I outlined in the second reading debate, the Democrats do not believe that the proposal is a satisfactory amendment. We believe that the referendum is unnecessary. We believe that the procedure which has been foreshadowed as occurring as a result of the Bill and the referendum Bill, which no doubt will follow, will be a very ineffective attempt to correct what has been a glaring injustice electorally in getting a democratic reflection of members elected responding to the percentage of the vote received by the Party or the candidate.

The proposal which the Democrats are putting forward is to revert to a system which has applied for many years in South Australia, that is, to elect more than one member of Parliament from a district, electorate or area. So, it is not a startling new concept. The proposal that we are putting forward is that South Australia be divided into nine electorates, from each of which five members would be elected.

This would require a reduction in the numbers of the House of Assembly. I realise that from time to time proposals have been floated in the media for reducing the number of members of Parliament. It seems to me that it is only the members of Parliament who seem to object to that. The proposal that we are putting forward is a modest reduction to comply with the constitutional requirement, that is, that an even number of candidates be elected in each electorate. As members would know—even the Hon. Legh Davis, without his calculator—47 is difficult to divide into an even number of electorates unless it is only one, in which case the issue would not arise. That would then be a similar system to that which pertains in the Legislative Council where we are one electorate.

The farce of expecting electoral boundaries and redistribution effectively to correct the anomaly which was the cause of so much embarrassment after the last State election is quite transparent when one looks at the requirement that the commission will need to predict how the electors will vote to a degree of accuracy which psephologists have not been able to achieve when it has been their lifelong occupation with as many resources, calculators and computers as they could summon to do the job. So, I want to make plain—and I have put this forward in my second reading speech—in moving this amendment, and covering the other amendments, the deep-seated concern of the Democrats for an amending Bill which will really achieve nothing.

It is a pity that an opportunity such as this has been missed, when a select committee was established in a House which has a vested interest in retaining the old system of single-member electorates. I was most concerned and angry that the Legislative Council was not involved in a joint House select committee or that it was not responsible itself for a select committee to look into this matter. However, that opportunity was denied us.

Although we had flirtations with exciting prospects in discussions with the newly-appointed Leader of the Opposition and other members of the Opposition, when the final wash-up came through there was no sign of a top-up system, let alone multi-member electorates being mooted. I consider that to be a very sad result of an opportunity that could have provided quite an exciting new opening for the democratic election of members to the House of Assembly as well as to the Legislative Council.

I make the final comment that, unless this legislation had intended to address substantially an electoral reform, it was doomed, as I believe it is now, to perpetuating a system that will continually recycle disgruntled political Parties. As in all single-member electorates, those who vote for an unsuccessful candidate will continue to have no satisfaction and no sense of result from their vote. So, I urge the Committee to support my amendment.

The Hon. K.T. GRIFFIN: The Opposition is not prepared to support the amendment. We note the remarks of the Hon. Mr Gilfillan about proportional representation and about the top-up or list system, but we recognise also that the provisions in this Bill are most likely to provide a more equitable and fair system than has occurred in the past because they recognise the need not only for equality of numbers within electorates within a tolerance of 10 per cent each side of the quota but also the need to ensure that, resulting from the way in which votes have been cast, the Party or group which gains 50 per cent plus one of the two Party preferred vote has a reasonable prospect of governing.

There are really two aspects to electoral justice—aspects which have been the subject of debate in the Supreme Court of the United States. Of course, the aspect of equality of electors has been the subject of a number of United States Supreme Court decisions, but only in the past two, three or four years has this concept of ensuring that a Party that gains 50 per cent plus one of the vote has a reasonable prospect of achieving Government been the subject of some closer scrutiny by the Supreme Court in the United States.

One recognises that with single-member electorates there is always a risk of imbalance, but it is the Opposition's view that that is more likely to occur over a longer period of time than a short period of time; also, it is likely to occur if a boundaries commission is not prepared to take into consideration past voting patterns as well as demographic changes within the electorates.

With the changes that have been proposed in this Bill, with redistributions after every election and with the criteria changed to place it beyond doubt that the boundaries commission will look at past voting patterns and demographic

changes, we are much more confident that we will be able to achieve a fair electoral system. One cannot push completely to one side the top-up system, because there is a measure of equity in that which really overrides the inequity which may occur in single-member electorates. That would have required some fairly dramatic changes to the electoral system. In the West German system, which has been referred to by a number of members of the Council, there are, in fact, two votes for the Lower House. There is a vote for candidates which, as I recollect, is first past the post, and there is a second vote for Parties, which again is first past the post, and it is the second vote which tops up the Parties that are under-represented.

Certainly, the Liberal Party was considering proportional representation as one means by which electoral justice could be achieved. There is no doubt that, proportionately, the vote achieved by candidates is reflected in the seats obtained, but it does not necessarily achieve stable government. We are presently in a system where there are two major political Parties, and we have a situation in Tasmania, for example, where a minority group does not necessarily reflect the majority views of the electorate, that is, the tail is wagging the dog.

The Hon. Anne Levy interjecting:

The Hon. K.T. GRIFFIN: I suppose that one could make the same sort of judgment about the Legislative Council, but the Government is not formed in the Council. Being a very strong advocate of the bicameral system, I can quite easily, logically and rationally justify a voting system for representation in this Council that is different from the House of Assembly.

However, the proportional representation system, particularly in a House from which a Government is formed, is not necessarily going to achieve stability in Government or necessarily give the people the preferred Government. It is for that reason that, although one has to keep an open mind about that sort of system, one has to make a judgment as to which is likely to provide both an electorally fair system and achieve stable government, whilst not entrenching a system which will not allow a Party with a majority vote to have a reasonable prospect of governing.

It is for those reasons that, whilst there are some attractions in proportional representation systems, and we will keep an open mind in relation to a top-up system in the future, for the moment we are prepared to give the system embodied in this Bill a reasonable prospect of being worked out in practice, because we believe that it has the best prospect of providing electoral justice and providing a stable Government.

The Hon. ANNE LEVY: The Government also opposes this amendment. I endorse many of the remarks, not necessarily all, made by the Hon. Mr Griffin. This subject was considered by the select committee and, I am sure, along with all other matters presented to it, was given very careful consideration by the select committee in another place. That select committee did not recommend this means of establishing the number of members of the House of Assembly. They, along with the Hon. Mr Griffin, did not feel that it was an appropriate method of electing members to a House where Government is formed.

I certainly reiterate the remarks made by the Hon. Mr Griffin that the proportional representation system is used for the election to this Chamber, but this is not the Chamber in which Government is formed and, while not endorsing his remarks about being a strong supporter of a bicameral system, it does seem to me that, while there is a bicameral system, there is a logic in having different methods of elections for the two Chambers.

If this system applied in the House of Assembly, as well as for the Legislative Council, there would be the danger of unstable government, government by coalitions, as does occur in some parts of the world, including Australia, where proportional representation is used for Chambers where governments are formed.

The Hon. I. Gilfillan: With single-member electorates there have been coalition governments. It is not unique.

The Hon. ANNE LEVY: I certainly agree with the interjection from the Hon. Mr Gilfillan that one can have instability without proportional representation, and certainly there are countries in the world where that does occur. Likewise, a proportional system is not a guarantee of coalitions and instability but, given the nature of the system, it is not surprising to find that it does produce a tendency towards instability and coalition governments.

Whilst this may sound extremely democratic, one of the major aims of any electoral system is to provide stable and secure government between elections. The voters must, of course, have the right to change the Government when they wish, but the electors do expect that when they have elected a Government to govern it will govern until the next election when it can be judged on its merits. Electors in South Australia, I am sure, would not welcome instability, constantly changing coalitions, or changes of Government, perhaps resulting in frequent elections or some of the situations which existed towards the end of the last century in this State, when I think Governments existed on average for about seven or eight months. I am sure that would not be welcomed by the twentieth century South Australian public, and even less so by the twenty-first century South Australian public. Certainly, the Government does not support the proposition put forward by the Hon. Mr Gilfillan, as a system of electing members, for the House of Assembly where Governments are made.

New clause negatived.

Remaining clauses (2 and 3) and title passed.

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

That this Bill be now read a third time.

The Hon. I. GILFILLAN: I felt that the odds were against us being successful with the amendments. In these circumstances, the Bill, in its original state and unamended, is unsupportable by the Democrats. I have previously outlined the arguments and I do not intend to canvass them again. However, I would like honourable members to recollect in the years ahead that they did have an opportunity to make a substantial change to the method of electing in the House of Assembly.

I was encouraged by the remarks of the Hon. Trevor Griffin that at least the Liberal Party has contemplated and will continue to contemplate the possibility of a top-up method. That being the case, I do hope that we can continue to have some dialogue with the prospect that, if nothing else, we can expect an undertaking from the Liberal Party that if successful at the next election it will move to amend the legislation. I make the point that a knee-jerk reaction to the result of one election was bound to produce the hasty, and somewhat panic-ridden reaction to the result that showed up as disproportionate in the last State election.

We do not want, nor do we need, to go through that process. There has been widespread support for a top-up, and may I say quite categorically, that is our less preferred system. I argued strongly and I would continue argue for a proportional representation system. I must emphasise that failing that, a top-up does at least offer the opportunity for groups who do not command a large proportion of the votes

an opportunity to be represented. How can any system be democratic when a proportion of the community has a preferred candidate, or group of candidates, and gets a percentage of the vote, which, if it were acknowledged in proportion to the total required, would enable that group to have representation in the Parliament?

It is very nice for those parties which have got substantial representation to be smug and say, 'Well the system is okay; we do not want to tamper with it,' and to pick up the flaws which may or may not occur from time to time with different systems, but I would just reflect, in concluding my remarks, that there have been just as many distortions, just as many chaotic situations created in Parliaments elected on single member electorates. I think we are maturing as an electoral community. The Legislative Council in South Australia is elected on basically a very fair and reasonable system and works well. Despite some grumbles from time to time, we are recognised as working well and in a constructive way. With those remarks, I indicate that the Democrats will oppose the third reading of this Bill.

The Council divided on the third reading:

Ayes (15)—The Hons J.C. Burdett, T. Crothers, L.H. Davis, M.S. Feleppa, K.T. Griffin, J.C. Irwin, Diana Laidlaw, Anne Levy (teller), R.I. Lucas, Bernice Pfitzner, Carolyn Pickles, R.J. Ritson, R.R. Roberts, T.G. Roberts and G. Weatherill.

Noes (2)—The Hons M.J. Elliott and I. Gilfillan (teller).

Majority of 13 for the Ayes.

Third reading thus carried.

Bill passed.

REFERENDUM (ELECTORAL REDISTRIBUTION) BILL

(Second reading debate adjourned on 4 December. Page 2260.)

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

BUILDING ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 14 November. Page 1816.)

The Hon. J.C. IRWIN: The Opposition supports the second reading of this Bill. It will provide for the improved administration of building control at both policy level through to composition and functioning of the Building Advisory Committee and operating level where councils ensure day-to-day observance of the Act.

The Act was amended in 1988 to provide for the incorporation by reference of the Building Code of Australia by regulation under the Act. In the process of drafting the proposed regulations, which call up the code and the set of administrative procedures, it was found that certain further amendments needed to be made.

The Bill empowers the Building Fire Safety Committee for an area to authorise suitable persons to undertake inspections of buildings and provide reports for committees. There are estimated to be some 2 000 buildings regularly frequented by the public of South Australia which need to be inspected.

The Bill provides for revised membership of the Building Advisory Committee, away from the appointed representatives for particular organisations to appointment on the basis of skill and experience in all facets of the building industry. A new system of annual revision of building fees will be introduced based on a series of construction indices for various classes of buildings.

Councils will be able to impose conditions when considering granting approval for construction or erection of a temporary building or structure including conditions regarding the removal of the building. The Bill provides authorisation for the certification by qualified persons of certain aspects of building places, plans, specifications, etc. It also provides authority for a system of private certification of plans to be included in regulations at some time in the future. The Minister makes clear that the Government has no plans to implement private certification in the short term.

Provisions for access to buildings for people with disabilities were introduced in 1988 and apply to new buildings only. Clause 19 will allow councils to require adequate facilities for access for persons with disabilities when granting approval for certain kinds of alterations to buildings erected before 1980.

The regulations for the Act are based on the work of the Building Advisory Committee and others, and the review of the administration of building control carried out by the Department of Local Government. But, as is becoming a frequent practice with this Government, consultation on the proposed amendments in this Bill have been selective—selective to the extent of some disregard for areas of advice from some highly skilled people. As I found previously from Ministers, one has to work with the suspicion of why there has not been what I would call 'adequate' consultation.

The Building Act as it is now sets up a Building Advisory Committee consisting of not more than 10 people all appointed on the recommendation of the Minister. Section 62 *(b)* of the Act provides that 'the Building Advisory Committee shall report to the Minister upon any proposals for the amendment of this Act that are referred to the committee by the Minister'.

Despite acknowledging the work done by the Building Advisory Committee on the national code, I believe the Minister has not asked for advice from the Building Advisory Committee on the amendments to the Act.

Further, as some amendments relate to building fire safety, I was alarmed to learn that the Metropolitan Fire Services, despite repeated attempts to obtain draft copies, were refused until the last minute, and in their words 'were justified in their concerns'.

The Minister may explain why, apart from some saving in payments to members on the Building Advisory Committee (that is the new one) the committee will be reduced from 10 members to six. The Minister has always had the power to appoint to the Building Advisory Committee any person the Minister wants. The new subsections of section 62 certainly spell out that the Chair should be a senior public servant, that one member shall be from local government and that others should have certain qualifications, and that one should be a man and one a woman, but, as I said, the Minister has always had the power to appoint whom she wants.

The Act did not spell out that there had to be representation from various groups of people to be on that advisory committee. The Minister has to assure us that the new formula of six rather than 10 members will be better than the old one, of which she had full control anyway. I put it to the Minister that the persons she will appoint under new subsection (2) must be absolutely acceptable to the Metropolitan Fire Service and local government. This is not a place for displaced persons from the Department of Local Government.

The Local Government Association was not consulted on the final amendments, although it is fair to say that broad discussion has been around for some time. Certainly, there are some questions for the Committee stage of the Bill, but I will address a number now. Clause 3 brings in a set of objects having regard to objects *(a)* and *(b)*, will be Minister explain what is meant by *(c)*, 'the protection of the environment'. I find it difficult to link this to the Building Act and fire safety. Does this introduce another authority which can object to new buildings on environmental grounds? Further, what does the Minister think *(d)* 'cost effectiveness' means? Is it cost effectiveness for the Government and/or the private sector, and who will judge that cost effectiveness? Will it be fairly applied to everyone right across the spectrum of building applications?

The Hon. Anne Levy: Public interest.

The Hon. J.C. IRWIN: I am just asking the Minister whether or not it is in the public interest, who would decide whether it is cost effective and what is the cost effectiveness as an object of the Building Act. How do you introduce a cost effectiveness objective without a heavy weighting towards the building structure, safety and fire safety. I hope sincerely that no-one in this Act will have power to make a judgment on a building's shape and/or aesthetics under the objective of the environment or cost effectiveness.

Regarding clause 5 and the proposed new arrangements regarding the acceptance by councils of building places, etc., if they have been prepared and certified according to regulations, it is envisaged by the Government that some time in the future plans, etc., can be drawn up by private consultants.

I am advised by the Local Government Association following its extensive consultation with professional bodies and consultants that it is strongly supporting the removal of this proposal and its being replaced by a small section allowing for current practices. I understand that there has been negotiation between the Local Government Association and the Minister's office on this matter, but the Minister may like to comment on that later.

We support local government in its belief that this clause should not be implemented until all parties are made aware of the many options which are available and of their legal implications. Neither the Local Government Association or us are opposed to private certification in the future. It was put to me that, of all the options available on this particular point the very worst one was chosen to include in this Bill.

I have not been privy to all the discussions that have gone on about this or to the intricacies of the points that are in this particular area of discussion, but the advice given to me was that there could well be a better option, and certainly the legal ramifications have not been highlighted by all parties involved in the amendment that is before us in this legislation.

In clause 12, relating to Building Fire Safety Committees for a council area, an amendment intends to add 'or a person authorised by the committee' to those authorised to inspect and enter buildings. We argue that those persons must have appropriate qualifications of at least 'Fire Science and Fire Engineering'. If the Fire Safety Committee of three has to be augmented to carry out the serious task of inspecting a structure and/or its fire safety then that person or number of persons must have appropriate qualifications. An amendment should properly be made, in our view, to reflect that, but the Minister will, I hope, assure me that no-one will be authorised by the committee unless that person has or persons have relevant qualifications.

The Hon. Anne Levy interjecting:

The Hon. J.C. IRWIN: Yes, but you are the Minister administering the Act. If there is any ramification from the work they do as far as a serious fire problem, for example, I put to you that you are ultimately responsible as the Minister for the Act.

The Hon. Anne Levy: I regard the committee as being made up of very responsible people.

The Hon. J.C. IRWIN: Yes, but we are suggesting that 'a person' appointed by that committee is not good enough because who is 'a person' and what qualifications does that person have to carry out on behalf of the committee some very serious investigations of a structure and its fire safety?

The Hon. Anne Levy interjecting:

The Hon J.C. IRWIN: It does not require qualifications?

The ACTING PRESIDENT (Hon. Carolyn Pickles): Will the Hon. Mr Irwin direct his remarks to the Chair, please.

The Hon. J.C. IRWIN: The Minister is saying that the person does not require qualifications.

The Hon. Anne Levy: I didn't say that. I said that the committee—

The ACTING PRESIDENT: Order!

The Hon. J.C. IRWIN: I am hoping that you will assure me that that will happen. I have already discussed the proposed new provisions for the Building Advisory Committee. We believe that even though the Minister is rejecting the apparent present practice of certain interested bodies being represented on the committee, a person from the private sector of the building industry should be a member of the Building Advisory Committee. It is quite conceivable that five members of the committee out of the six could come from the Government's own SACON, with no private sector representation. This would be an unhealthy situation and again I seek an assurance from the Minister that this will be a balanced committee with both public and private representation.

The Hon. Anne Levy interjecting:

The Hon. J.C. IRWIN: Good; it is not guaranteed in there but I take your assurance that it will be provided.

Clause 19 amends the schedule of transitional provisions to empower councils to impose as conditions of approval to make alterations of a prescribed kind to buildings or structures erected prior to 1980, such conditions requiring such building work or other measures to be carried out as may be reasonably necessary to ensure that the facilities for access for disabled persons will be adequate. I hope again that we can be assured that there will be a reasonable approach on this matter and that domestic premises will be excluded from that requirement, albeit its being a good and sensible requirement, but I guess it is mainly reflecting on public buildings and their access.

During my consultation on the amendments to the Building Act a number of points have emerged to which I would like to refer briefly in relation to the national building code. While there is a reference to SAG 5.101 of the building code in the proposed new regulations to buildings in bushfire risk areas, only the areas in schedule 3 are laid out. Further, I cannot find a reference in the proposed regulations to SAG 1.1, with regard to swimming pools and spas. I assume regulations pertaining to the national code will be tabled following a lengthy consultation and regurgitation period. Regarding swimming pool fencing, I am unaware of progress since the publishing of the green paper in June 1990 but I am also aware that the Minister has an answer to a question that I asked a week ago about where we were at with the consultation on the swimming pool fencing issue, so I will await an opportunity to have that answered tomorrow.

Draft regulations have been circulated which to my knowledge have not yet been tabled; they have drawn some comment from those interested in fire safety and other matters. The comments have ranged across the areas serviced by the Country Fire Service and Metropolitan Fire Service.

The most significant comment relates to a certificate from the fire authority certifying that the building or structire has been equipped with a booster assembly. Advice to me has been that the proposed regulation excludes the fire authority from giving an opinion on installed fire services and the practical proof testing of the systems for flows and pressures.

As the fire authority is the only user of the major portion of the installed fire equipment it should apply a practical test prior to the issuing of a certificate. The fire service which currently tests the systems as part of the certifications process has I believe on numerous occasions found the flows and pressures well below the minimum required. One can imagine the fire service being perturbed when it sends fire fighters into buildings to find a trickle of water instead of a proper fire fighting jet at the scene of a fire.

If this point and others relating to the regulations are sustainable then I hope the regulations are changed and, if not, challenged so that there is a satisfactory outcome for our Metropolitan Fire Service. It is justifiably proud of its standards and professional achievements. Its safety and that of others is of paramount importance. I believe in 1988 the definition of class III buildings was changed to suit the Grand Prix so far as boarding type accommodation for the event was concerned. I am advised this reflected against all class III buildings. Class III buildings are essentially those which provide accommodation for a number of unrelated people. The change allowed up to 12 persons to be accommodated. I believe the situation has been abused.

The fire service is concerned that there is, under current regulations, a potential for loss of life due to the absence of any fire safety requirements. I understand the current policy of the Building Fire Safety Committee and the Metropolitan Fire Service is that in buildings with up to six persons there should be six persons single station detectors and for six to 20 persons a full A/S 1670 alarm system with fire compartmentation, exit and emergency lighting. Twenty persons and above calls for a full A/S 1670 alarm system connecting to a fire station.

I am told there are a number of boarding houses, including back packer hostels, being set up without involvement from authorities. one I am aware of was licensed to accommodate 43 persons under a council by-law which when inspected had 130 accommodated. That is a very unsatisfactory situation and could well lead to a tragedy on the scale of a recent Kings Cross, Sydney, disaster.

The Minister of Local Government administers this Building Act and in the final analysis is responsible for any tragedy which may occur. She has been warned by the Opposition and by others that there are some very unsatisfactory situations about. For the life of me I cannot understand why the Minister responsible for emergency services, Mr Klunder, has not demanded that the advice of the Metropolitan Fire Service is not heeded. Neither Minister can walk away from their responsibility.

Further, another matter brought to my attention concerns the Minister of Health and the Building Act as it applies to fire protection of hospitals. The State Government demands that private hospitals must comply with all requirements but then does not comply itself. Section 39 (i) of the Building Act provides:

> Where the committee is satisfied that the fire safety of a building or structure owned by, or on behalf of the Crown is not adequate, the committee shall cause notice to be given to the Minister responsible for the building or structure setting out the building work or other measures that the committee considers should be carried out to ensure that the fire safety of the building or structure is adequate.

The Government is very coy about this section of the Act. Questions were raised in the Estimates Committee of the Minister of Emergency Services and we were told there would be a reply, and the due date for replying was two months ago. I ask again: how many buildings owned by the Government, including hospitals, are considered by the committee to be a fire risk? How many notices have been given to the Minister of Local Government responsible for this Act and/or the Minister of Health?

Just as a sample, I am advised that the following hospitals do not comply with fire safety requirements: Royal Adelaide, Queen Elizabeth, Port Augusta, Whyalla and Hutchinson Hospital, Gawler, to name a few. It is not good enough to cry poverty because the lives of people—staff and patients—may be at risk. If it is good enough for country hospitals and private hospitals to be made to comply, it must be good enough also for Government owned hospitals and buildings to comply.

In other buildings, I am advised that in many instances fire systems have been allowed to run down to the point where they do not work. I hope the new Fire Safety Committee will have more luck in getting some action from the Minister administering this Act. It has been put to me that, as the draft regulations stand now they do not attempt to define either 'building' or 'outbuilding'. The lack of definition of 'building' has been raised many times in court proceedings. Although 'outbuilding' is defined in the present regulations, it is not addressed in the 1990 draft regulations. Can the Minister explain why these matters are not addressed in the draft regulations that are being circulated?

I draw the Minister's attention to section 6 of the Act—the interpretation provision. The Fraser and Keane judgments relating to section 6 were landmark judgments for Australia, and I am advised that the interpretation following on from those judgments by councils in particular has not been good. I have no doubt that the Minister's department would have had as much to do with advice from Mr Tom Keane on building and planning matters as they relate to local government, as her department has had from the redoubtable Mr Gordon Howie on traffic and parking matters. The Minister admitted yesterday—

The Hon. Anne Levy: I do not think he's quite so—

The Hon. J.C. IRWIN: It would probably still be fairly comprehensive. I saw from the Minister's contribution last night, when I was absent from the Chamber, that the Minister noted that she had had considerable contact from Mr Howie. I wish to read into the record of this debate the following advice from Mr Keane to add to what I have already said:

> It's now more than two years since the planning judgment of both *Fraser v Noarlunga* December 1986, and Building Act judgment of *Keane v Salisbury council* August 1988, were won in the Full Supreme Court of South Australia. A large number of councils are still illegally charging planning and building application fees for structures that are not 'outbuildings' of another building of the Acts. None of the structures as named in the first column of table 8-1 of the 1971-74 Building Act regulations are buildings of either the Planning or Building Acts, unless they are of 'the same kind, or nature' to another building of the Acts, such as a 'dwelling house', so that, if a toolhouse, fowlhouse, private garage, or 100 other items not mentioned in the column of table 8-1 of the building regulations, then, so long as the structure is built at the back or sides of that dwelling, and is used for the stipulated purpose only, or is the main use, then none of those items in 8-1 of the regulations are buildings of either Act, except perhaps if a sleepout, which if used in conjunction with the dwelling and seen to be one with the dwelling, could under certain circumstances be caught by the Act; but the sleepout would not be caught

on a block without a dwelling on it, such as a fruit or secondary industry block, or even the spare block up in the hills, or on the Murray River.

However, a garage built in conjunction with and as one with a dwelling, would always be assessed as part of the dwelling, and as such both a building of both Acts and also a valuation item, whereas none of the items in 8-1 of the regulations should be assumed either way, even if concreted in, concreting the floor area is essential for vermin control. We should remember that 'goods and chattels' are your personal property, and as such never belong to the Crown, but once you sign a document of either the Planning or Building Acts, then you are signing away your rights to your personal property, and as such becomes the property of the Crown on which you pay rates and taxes forever.

I personally believe that, if not before the Keane judgment, all councils and Government instrumentalities that have been charging the above fees could be guilty of acts of duress, and so fully liable for full damages since the Keane case at least.

The new Building Code of Australia, which will be out in a month or two, will be taking the place of the present regulations, but won't alter in any way the 'outbuildings' issue as above; it will, however, allow for up to 10 square metre floor area, against our present 6 m^2 for those things that are caught with the Acts, of the items in the first schedule of item 4 of the code, and/or 8-1 of the present regulations.

The items of the first schedule of the new regulations, and 8-1 of the old, that would be within the Acts would only be those items that would be part of a shopping complex, and retail outlets, etc.—nothing to do with backyards, farms, etc., that are producing 'in any capacity', and are fully covered in law.

I would appreciate a comment from the Minister in due course on the matters raised by Mr Keane. I hope that when the new Building Act regulations are tabled, they will, in this and other areas, take in the matters I have raised in this debate. No doubt there will be a fairly lengthy process before these matters are tabled as regulations. I support the second reading of the Bill.

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

OCCUPATIONAL HEALTH, SAFETY AND WELFARE ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 21 November. Page 2085.)

The Hon. K.T. GRIFFIN: I will not speak at length on this Bill, the Council will be pleased to note. My colleague, the Hon. Mr Stefani will assume the prominent role on this legislation. I suppose that I have pulled rank to get my speech out of the way as much as anything. The Bill causes the Opposition some concern. We will support the second reading to enable a number of matters to be considered in Committee, but, if our amendments are not supported, we intend to oppose the third reading.

That is not to be taken as an indication that we are not sensitive to occupational health, safety and welfare matters, but it is an indication that in the current economic climate, where all business—in particular, small business—is hard pressed, we are not prepared to impose additional burdens on small business with the consequent penalties that flow from them when there could be a more appropriate and less mandatory application of the law to particular workplaces.

I will just run through some of those areas that have caused the Opposition some concern. They were identified by the shadow Minister, my colleague Mr Graham Ingerson, but here, of course, we have an opportunity to take those issues further. The first problem is with clause 3. This is an interpretation clause that seeks to redefine 'workplace' to mean 'any place (including any aircraft, ship or vehicle) where an employee or self-employed person works and includes any place where such a person goes while at work.'

The major change in this area is the inclusion of a place where a self-employed person works. That is a dramatic change to the present law. It means that even the premises of a person who is working at home on a part-time basis, perhaps making toys for children at Christmas and selling them to supplement superannuation or other income or of a person who may be on piece work rates and working from home, become a workplace and subject to all the intrusions that might occur as a result of inspections and other activities required at the workplace. That is a substantial intrusion into the personal affairs of individuals.

When this matter was raised in the House of Assembly, the Minister said, 'Well, in some cases if you are doing small jobs on a part-time basis at home, that won't necessarily mean that this particular workplace is covered, but, on the other hand, if you are working for yourself on your farm and, even if you do not employ someone else, you are caught.' I think that it is no business of inspectors or others what one does on one's own property if it does not involve other people. In this life, you cannot have the Government acting as a nanny for every individual and telling you what you can or cannot do with your own life at all times—and this is what this amendment will ultimately lead to.

Clause 4 is a problem, because it seeks to extend from 13 to 15 the membership of the commission and, in particular, to introduce membership of a person nominated by the Minister, after taking into account the recommendations of the South Australian Chamber of Mines and Energy, to represent the interests of employers.

When the principal Act was before us, there was a debate about mine safety. It was recognised that there was an already stringent and existing regime dealing with safety in the mining area, and that it was important that the two pieces of legislation did not overlap and create confusion for miners, recognising that adequate protections were already in place. This clause seems to suggest that, by including the membership of the Chamber of Mines and Energy on the commission, the Minister is looking to broaden the ambit of his influence and responsibility.

Clause 7 deals with employers' statements for health and safety at work. The ultimate effect of that is that any workplace which I understand is presently exempt from the mandatory requirement to develop a health and safety policy will be included. This requirement will apply to workplaces with five or less employees. Whilst one does not deny the desirability of such a statement being helpful if it is worked out by the employer in conjunction with employees, small business is notoriously deficient in assistance, and time in particular, and usually there is a very good relationship between the employer and the employees which would make unnecessary the mandatory requirement for a policy statement.

In my view, it is preferable if there is a concern about these sorts of workplaces that an educational program be developed that will assist in improving workplace health and safety rather than mandatory obligations which will undoubtedly create additional pressures and costs on employers and employees and will not necessarily achieve the objective but rather will create resentment and cause more trouble than bestow benefits.

Clause 8 is of some interest, because it places an onus upon persons who design a building, such as architects, engineers and others involved in the design process, to ensure that, as far as is reasonably practicable, a building is designed so that people who might work in or about the workplace are, in doing so, safe from injury and risks to

health. There are a number of qualifications. A person who designs the building attracts a liability and a penalty, for that matter, if it is reasonably expected that the building will comprise or include a workplace. That may be obvious with a large building without partitions, but it may not be known exactly what sort of workplace it might comprise. As I see it, the difficulty is that this provision could be interpreted as imposing a very onerous obligation upon a designer even where later the premises might be used for purposes which might not have been in the contemplation of the designer but for which the premises might be adapted in the future and for which certain aspects of a design, such as ventilation, may not be appropriate.

In addition, the person who designs the building must ensure so far as is reasonably practicable that, without knowing what sort of workplace, industry or business might be carried on in the premises, it will be safe for persons who work in, on or about that workplace. That introduces a speculative aspect to this area. It places for the first time a significant onus upon a designer of a building, and we must remember that that is quite different from a piece of equipment which is designed for specific purposes. Buildings are not necessarily designed for specific purposes, and this provision may well place an unreasonably high burden of liability upon the designer. My colleague, the Hon. Mr Stefani, is much better equipped and experienced to deal with this than I, and I hope that he will address some remarks to that matter.

Clause 10 proposes to introduce a much heavier involvement of registered associations into the consultation process, including a capacity for a member of a registered association who might also be an employee to have a matter referred to the Industrial Commission. It seems to me that that is an unnecessary intrusion into the relationship between employers and employees. So far as the Office of Health and Safety representative is concerned, the Liberal Party in the other place was successful in having one amendment passed in relation to the number of votes necessary to have a health and safety representative in place, but was not successful in the House of Assembly in reducing the majority from two-thirds to 50 per cent plus one regarding the number of recognised members of a work group who might be able to remove their health and safety representative.

The functions of health and safety representatives under clause 15 also cause concern because the clause requires a representative to be present at every interview with an employer unless the employee requests otherwise. That changes the position quite significantly from the present position where the representative can be present at any interview at the request of the employee. Of course, the real difficulty is what is an interview and, if clause 15 is passed, it will open up a totally new ballgame for negotiations or even discussions between employers and employees, because I suggest that, in most if not all instances, the representative will be required to be present, otherwise the employer will run the risk that there will be a prosecution and that the employer will therefore be liable to a substantial penalty.

Clause 17 deals in some respects with a similar matter but also deals with the question of health and safety representatives taking time off from work to take part in a course of training where the employer employs 10 or fewer employees. At present, that is arranged by negotiation between employer and employee, and is largely at the discretion of the employer. Clause 17 gives the representative a right to take time off from work to take part in a course of training, but the employer can determine when in any particular year that may occur. But it provides that it will occur, or that is the implication, and the burden on the small business person will thus be quite significant.

The matter of expiation of offences (clause 26) is a problem. As I have indicated on previous occasions in different debates, I have a concern about the wholesale expansion of expiation fees, because they tend to remove discretion and make it a much easier option for inspectors, and there tends to be an increase in the volume of activity arising where breaches of laws are alleged to have occurred. The Opposition will be dealing with that in Committee, and opposing clause 26.

Clause 27, which deals with offences by bodies corporate, causes problems. It makes a range of people liable, who are not presently liable: for example, all the directors, if they do not appoint a responsible officer who must take reasonable steps to ensure compliance by the body corporate of its obligations under the Act. That is a much more onerous obligation than exists at present. One of my concerns is that quite significant change is being proposed in this clause, and in the whole Bill, when, in fact, the principal Act has been in operation for what is only a relatively short period of time, and even that is still poorly understood by employers and even by employees.

With respect to codes of practice, I will propose that such codes be adopted only after consultation by the Minister with associations of employees or employers likely to be affected by the code of practice. That is largely to overcome a problem that I understand has occurred in the past, particularly with manual handling codes, where Worksafe codes were adopted, but then modified. I suggest that if there are to be modifications of the codes of practice to suit the climate in South Australia, that ought to be done after consultation. I am not saying that there should not be modifications, I am only saying that they should result from consultation.

That is a brief overview of the matters which cause me concern. My colleague the Hon. Mr Stefani will deal with the Bill in much more detail and from a position of much broader experience in occupational health, safety and welfare than I have had. I support the second reading.

The Hon. J.F. STEFANI: I shall keep my remarks rather brief, as it is getting somewhat late and we all want to see the procedures speeded along. The provisions of this Bill seek to achieve some reforms in the area of occupational health and safety whilst strengthening the legal status of the codes of practice under the Act. The Bill further attempts to improve certain administrative procedures and arrangements to facilitate the operation of the Act and seeks to clarify the responsibility for duty of care. It also provides for certain offences committed under the Act to be expiated.

In principle, the Opposition is supportive of any legislative measure which will address and improve the safety of workers in the workplace. However, the Liberal Party is very critical of the Government because, despite its highly professed consultative process, it has again failed to appropriately address the concerns of employer organisations and, at the same time, it appears that a pro-union bias is being introduced by the Government in all forms of legislation in order to satisfy its political masters.

By its actions, the Government is creating unnecessary bias, intrusion and compulsion on many businesses which are struggling to survive under the continuous onslaught and interference from Government legislation and union involvement, all of which have, over a period, destroyed many jobs and have sent many businesses to the wall. The Opposition is of the firm view that the Government and the unions should not be interfering with what should be

an arrangement between employees and employers at a specific workplace.

The Liberal Party has no objection to legitimate actions and the involvement of the trade union movement in certain matters but, in the area of occupational health and safety, which involves specific arrangements between employers and employees, the role of trade unions should not be prescribed by legislation. The management of the workplace should clearly be the responsibility of the parties involved without the interference of a third party.

The provision to upgrade and implement a standard code of practice is both desirable and necessary, and we support the Government's initiative to improve the status of the codes of practice, particularly as they apply to the definitions which cover the interests of employees in carrying out their work in a safe manner. The Opposition is generally supportive of the provisions contained in the Bill which seek to expand the general duty of care in a number of areas.

Whilst current safety obligations require employers to observe certain safety procedures, the Bill more specifically provides that employers must ensure the proper training of employees, including managers and supervisors. The provisions which deal with eating, sleeping, working and other accommodation are superfluous because, I believe, they are already covered under the Health Act and therefore they become a duplication of an existing law.

In seeking to improve safety for all workers in the workplace, the Bill seeks to impose the obligation on all employers to develop a health and safety policy regardless of the number of people they employ. Whilst this objective may have some merit, the reality and practicality of requiring a business which employs fewer than five people to develop a written safety policy is not appropriate or practical. Amendments allowing the right of entry for inspectors to enter work premises of self-employed persons is offensive and the Opposition will oppose this measure.

The Liberal Opposition supports the requirements which seek to eliminate the risk of injuries at their source, namely, the workplace, but we point out that the provisions which oblige owners of buildings being used as workplaces to design and maintain buildings in a safe condition would be better dealt with in the Building Act. The Liberal Party strongly opposes the concept of unions becoming a 'third party' authority in occupational health and safety legislation. We support the concept which provides for the appointment of properly trained safety representatives and committees where appropriate.

The amendments which require that safety representatives must be present at all interviews between safety inspectors, employers and employees are unreasonable and will be opposed. It is our view that, as in many other issues, safety issues should be addressed in a commonsense manner by the people involved. The Liberal Opposition strongly opposes the provisions dealing with the re-composition of the Occupational Health and Safety Commission and, similarly, the proposed increase in fines for breaches of the Act.

In conclusion, the Opposition will be seeking to move amendments in Committee to address the various concerns which have been raised with the Liberal Party by various groups and which have been previously outlined in debate in another place. I support the second reading.

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

PIPELINES AUTHORITY ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 22 November. Page 2173.)

The Hon. L.H. DAVIS: The Opposition supports this Bill, which seeks to amend the Pipelines Authority Act 1967. The Pipelines Authority, which in my view is one of the better managed statutory authorities in South Australia, was established in 1967. Its purpose at that time was both to construct and to operate the natural gas pipeline from Moomba to Adelaide. It is worth reflecting that in the past 25 years in this State, which certainly until the 1960s was never regarded as being a prospective place for oil and gas, we have been extraordinarily successful in making regular discoveries of both oil and gas.

The pipeline from Moomba was completed in 1969, and history was made with the first delivery of natural gas to Adelaide in that year. There was also a pipeline to Angaston supplied off that main pipeline from Moomba to Adelaide. The authority transported natural gas which came out of the Cooper Basin. The principal operators in the Cooper Basin in that time have been Santos, Bridge Oil, South Australian Oil and Gas and a clutch of other companies. From 1974 the Pipelines Authority took over the responsibility for purchasing gas in Moomba and for the sale of gas to customers which included the Electricity Trust of South Australia and the South Australian Gas Company.

In the decade of the 1970s, the pipeline was upgraded to reflect increased demand. Pipelines have added to the overall system, including a pipeline to Port Pirie in 1976 and, more recently, a pipeline to Whyalla. In 1982 the authority was responsible for the construction of the Moomba to Port Bonython hydrocarbon liquid pipeline, and in 1986 a pipeline was constructed from Wasleys to Torrens Island. That background is interesting, because it shows the continued growth and development of the Pipelines Authority of South Australia.

The annual report for the year ended 30 June 1990, tabled recently, indicates that the Pipelines Authority, under the chairmanship of Keith Lewis, a former Director-General of the E&WS Department, including board membership of Mr Keith Johns, the Director of Mines and Energy, and with a very strong management, has had yet another successful year; in fact, its twentieth year of operation since its establishment. The results for the year just ended were most satisfactory. There was a very small deficit, but the accounts reflect an accumulated surplus of $1.5 million.

The purpose of this legislation is simple: it aims to extend the ability of the Pipelines Authority to operate beyond State boundaries. Section 10 of the principal Act is to be amended to delete the phrase 'for conveying petroleum or any derivative thereof within this State and petroleum storage facilities connected therewith' and substitute in lieu thereof the words 'for conveying petroleum or its derivatives to, from, through or within this State or petroleum storage facilities connected with any such pipelines.'

In other words, it empowers the Pipelines Authority to act beyond the boundaries of South Australia. Similarly, existing section 10 paragraphs *(b)* and *(c)* are amended to give the Pipelines Authority the power to 'purchase, take on lease or otherwise acquire (by agreement) any pipeline for conveying petroleum to, from, through or within this State, or any petroleum storage facility connected with any such pipeline or petroleum storage facility' and to 'deal with, sell or otherwise dispose of any pipeline or petroleum storage facility or any interest in a pipeline or petroleum storage facility.'

It also gives the authority power to 'acquire shares or other interests in a body corporate that has an interest in a pipeline or petroleum storage facility' as well as to 'enter into a partnership, joint venture or other form of cooperative arrangement with regard to the construction or operation of a pipeline or petroleum storage facility'.

If one takes all those things together, they lead to a number of interesting conclusions. First, the Pipelines Authority, which has to date operated strictly within the boundaries of South Australia, can now operate anywhere in Australia, provided that those pipelines enter or pass through this State and any facilities associated with those pipelines. As the second reading explanation indicated, these amendments reflect the fact that natural gas reserves in South Australia, as we know, are not unlimited. However, there have been significant discoveries of natural gas in the Northern Territory and, perhaps more particularly, in south-west Queensland.

These amendments will enable the Pipelines Authority to participate, if needs be, in being a conduit for additional gas supplies from beyond South Australia. In other words, as the second reading indicates:

> As it is likely that interstate sources of gas will be required to supplement gas supplies from the South Australian sector of the Cooper Basin it is desirable for PASA to be involved in pipelines which might cross State borders.

That is something in the foreseeable future. I do not have any objection to extending PASA's powers to take into account this development. Indeed, it is interesting to reflect on the fact that we are gradually seeing a grid of pipelines developed in Australia to reflect the growing discoveries in regions that were regarded previously as unlikely to produce significant commercial discoveries. It also reflects on the fact that we are becoming more conscious of maximising the various sources of energy to their fullest potential.

The other aspect of these amendments is that not only is PASA given the ability to purchase or lease pipelines or facilities connected with those pipelines within and beyond South Australia but interestingly enough PASA is given the ability to deal with, sell or otherwise dispose of any pipeline or petroleum storage facility or any interest in a pipeline or petroleum storage facility.

Clearly, that suggests that Premier Bannon and his commercially illiterate Cabinet are being dragged screaming to the reality that the world of privatisation is upon us. Privatisation is all around us.

The Hon. T. Crothers interjecting:

The Hon. L.H. DAVIS: It is all around the Hon. Trevor Crothers. We have seen examples of privatisation in Queensland, which is talking about privately owned power stations; in Western Australia, where Premier Lawrence is making similar noises; in Victoria, where the socialist left embattled Premier Joan Kirner is selling off $1 billion worth of forests—

The Hon. T.G. Roberts: Not accurate.

The Hon. L.H. DAVIS: I delete the word 'socialist'—just left. In New South Wales Premier Greiner, who is the only commercially literate Premier in Australia, has already made quite clear that he is running Government as it should be run—as the biggest business of all. Premier John Bannon, who is an economic wimp and who is trailing all Australian States by some margin in microeconomic reform, in making Government more efficient and effective and paring Government services where necessary, and giving Government services over to the private sector where they can be better run, where appropriate has snuck in this measure. It will be interesting in the Committee stage of the Bill to ask the Minister what this means, because we have seen recent suggestions that the pipeline through to AGL in Sydney should be sold.

Does it mean that the Bannon Government will be seeking to sell off PASA to private interests to raise funds? That is an interesting question. Similarly, the Bill gives PASA the power to acquire shares or other interests in a body corporate that has an interest in the pipeline or to enter into a partnership, joint venture or other form of cooperative arrangement with regard to the construction or operation of the pipeline or petroleum storage facility. That is a halfway measure, perhaps, for the Bannon Government so that maybe it could sell off a 49 per cent interest in the Pipelines Authority to the private sector.

So, it is an intriguing piece of legislation, introduced under the guise of accepting that South Australia may receive gas from outside South Australia, namely, from the Northern Territory and/or south-west Queensland. As I have said, the Opposition quite readily accepts the proposition but is intrigued with some of the aspects of this amendment to the Pipelines Authority Act Amendment Bill and looks forward to receiving replies—I hope, commercially literate replies—during the course of the Committee stage of the Bill.

Bill read a second time.

In Committee.

Clause 1 passed.

Clause 2—'Commencement.'

The Hon. L.H. DAVIS: I would like to ask some questions which the Minister can take on notice and provide answers at a later date. I suspect these are questions to which she will not have immediate answers. First, why is it necessary, when the purpose of the Bill is to provide for the Pipelines Authority to be able to convey petroleum from, through or within the State or petroleum storage facilities connected with any such pipeline, that the Bill is being amended also to give the Pipelines Authority the power to sell or otherwise dispose of any pipeline or petroleum storage facility? Similarly, why is it necessary for the Act to be amended to give the Pipelines Authority power to acquire shares or other interests in a body corporate that has an interest in the pipeline?

[*Midnight*]

I readily understand that, when we are dealing with the interstate transmission of oil, some joint ventures may be required. I can more readily accede to the amendments set down in clause 4 *(c)*, but my principal question is the one that I first addressed, namely: why is the Pipelines Authority being given power to deal with, sell or otherwise dispose of any pipeline? Is this a prelude to privatisation?

The Hon. ANNE LEVY: I do not have the answers to those questions at the moment, but I will certainly pass them on to the Minister in another place and request that answers be made available to the honourable member at the earliest opportunity.

Clause passed.

Remaining clauses (3 and 4) and title passed.

Bill read a third time and passed.

LAND AGENTS, BROKERS AND VALUERS ACT AMENDMENT BILL

Returned from the House of Assembly with an amendment.

LAND ACQUISITION ACT AMENDMENT BILL

Returned from the House of Assembly without amendment.

MOTOR VEHICLES ACT AMENDMENT BILL (No. 5)

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

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

That this Bill be now read a second time.

In view of the lateness of the hour, I seek leave to have the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Bill

The purpose of this Bill is to amend the Motor Vehicles Act 1959 to give effect to the Government's decisions arising from the 1990 South Australian budget. This Bill will enable the rationalisation of concessions on registration fees currently granted under the Act. At present there are a total of 162 000 vehicles registered at either a reduced registration fee or no registration fee. The total value of these concessions is an estimated $14.2 million per annum which would otherwise be paid into the Highways Fund. A number of these concessions have existed since the inception of registration fees and their original justification has diminished over time.

Major changes proposed include discontinuing registration without fee for some vehicles used for the maintenance and construction of roads and for the collection of household rubbish by local government councils. Councils will be required to pay registration fees on vehicles such as trucks and utilities similar to those paid by other organisations and bodies undertaking similar roadworks and rubbish collection. Vehicles specifically adapted for road-making such as graders, tractors, rollers and bitumen layers will continue to be registered without registration fees. One metropolitan council and one rural council were taken as samples to examine the effect of these changes. For the metropolitan council, the effect is estimated as an additional $20 000 per annum in a total budget of $17.9 million. The rural council would pay an estimated additional $6 000 in a total budget of $1.4 million.

The concession available to primary producers whereby commercial vehicles are granted a 50 per cent reduction in registration fees is to be rationalised. The concession will continue to be available on any number of commercial vehicles provided that the mass of a vehicle is 2 tonnes or greater. The 50 per cent rebate will no longer be available in respect of light commercial vehicles of less than 2 tonnes mass. It is proposed to discontinue the concession on vehicles such as utilities and small tray tops which are a class of vehicle often used for purposes other than in connection with primary production.

Primary producers currently receive a reduced third party insurance premium. A primary producer in the country area pays an annual premium of $43 compared with a premium of $144 for a similar commercial vehicle registered in the country at full fee. The cheaper third party insurance premium will continue to be available on all commercial vehicles owned by primary producers irrespective of the mass of a vehicle.

For individual owners with vehicles of less than 2 tonnes mass currently registered at a primary producer's concession, the net effect of the Government's decision on a typical vehicle such as a Holden or Ford utility is an additional $60 per annum payable on the registration fees. Fees payable overall by primary producers to register and insure will continue to represent considerable savings over the fees paid by other owners of similar commercial vehicles. The 75 per cent rebate on the registration fee for tractors owned by primary producers will remain.

There are currently a small number of commercial vehicles registered at a 50 per cent concession by prospectors. It is proposed to discontinue the prospectors' concession, but in the case of prospectors operating their vehicles wholly or mainly outside a local government area, the 50 per cent concession may be retained by applying for the concession available on vehicles operated in remote areas. Other concessions on registration fees such as those afforded certain pensioners and incapacitated persons will not be varied and will continue to be available.

In the order of 9 000 vehicles will continue to be registered at no fee. This Bill provides for the introduction of an administration charge, proposed to be fixed by regulation at $15, payable on an application to register or renew the registration of a vehicle registered without registration fee. The administration fee is calculated to recover the costs of processing and recording the application and issuing a registration certificate and label. These changes when implemented will result in additional revenue for the Highways Fund of an estimated $3 million in a full year.

At present, provisions relating to the registration of motor vehicles at reduced fee are contained in the Motor Vehicles Act. Provisions relating to registration without fee are contained both in the Act and the regulations. This Bill rationalises these provisions by enabling reduced registration fees and the registration of vehicles without registration fees to be prescribed by the regulations. I commend the Bill to honourable members.

Clause 1 is formal.

Clause 2 provides for commencement of the measure on a day to be fixed by proclamation.

Clause 3 amends section 5 of the principal Act by substituting new definitions of 'prescribed registration fee' and 'reduced registration fee' and by striking out the definition of 'primary producer'.

Clauses 4, 5, 6, 7 and 8 make minor amendments to, respectively, sections 16, 20, 21, 22 and 24 of the principal Act to include references to any administration fee that may be payable for registration of a motor vehicle in lieu of registration fees.

Clause 9 amends section 27 of the principal Act to extend the Governor's regulation-making powers in relation to registration fees to empower the making of regulations that—

(a) require the Registrar to register motor vehicles of a specified class without payment of a registration fee;

(b) prescribe administration fees to be paid in respect of applications to register motor vehicles entitled to be registered without payment of registration fees.

Clause 10 repeals section 31 of the principal Act which requires the Registrar to register certain motor vehicles without payment of registration fees.

Clause 11 repeals sections 34 to 38b of the principal Act which provide for the reduction of registration fees in relation to the registration of primary producers' commercial

vehicles and tractors, vehicles in outer areas (i.e. Kangaroo Island, the areas of the District Council of Coober Pedy and the District Council of Roxby Downs and all other parts of the State not within a council area or Iron Knob) and motor vehicles owned by incapacitated ex-servicemen or ex-servicewomen, concession card holders and certain other incapacitated persons.

Clauses 12 and 13 make a minor amendment to, respectively, sections 41 and 42 of the principal Act to clarify that references to fees are references to registration fees.

Clause 14 makes consequential amendments to the Stamp Duties Act 1923, to re-enact the definition of 'primary producer' removed from the Motor Vehicles Act, to remove references in schedule 2 to the Stamp Duties Act to section 38 of the Motor Vehicles Act (which is repealed by this Bill) and to set out in the stamp duty exemption provisions the conditions of eligibility for reduced registration fees which were set out in section 38 of the Motor Vehicles Act, and to replace a reference to 'Department for Community Welfare' with 'Department for Family and Community Services'.

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

ELECTRICITY TRUST OF SOUTH AUSTRALIA ACT AMENDMENT BILL

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

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

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

The purpose of this Bill is to establish the Electricity Trust Superannuation Fund as a fund protected from the Commonwealth Government's Tax on superannuation funds. The Bill establishes the ETSA Superannuation Fund as an entity holding assets and dealing in assets of the Crown. The Bill has no bearing on existing benefits paid under the various ETSA superannuation schemes and the rules of the schemes will continue to be prescribed by the trust.

The fund being established by this Bill provides considerable assistance to ETSA by meeting part of the cost of the benefits payable under the rules of the schemes. Without the fund being protected from Commonwealth tax, the fund will continue to be liable to a 15 per cent tax on fund earnings and employer contributions paid into the fund. Without protecton from the tax, there would be a considerable increase in the cost of maintaining the schemes. These costs would have to be met by the ETSA consumers of this State.

The action being taken by the Government in this Bill is the same as that already taken to protect the main State superannuation fund, the Parliamentary Superannuation Fund and the Police Superannuation Fund. Like the other main public sector schemes in this State, the benefit structures of the ETSA schemes are for historical reasons, far more complex than those in the private sector, and do not lend themselves to simple and equitable solutions in offsetting the cost of the tax.

Furthermore, like the main State scheme the ETSA schemes have been the subject of substantial review and adjustment over the past three years and therefore the Government believes it is unacceptable to start another review of the schemes culminating in possible reductions in gross benefits. The Government stresses that the effect of the main provisions of the Bill mean that employees will continue to pay the full tax due on their superannuation benefits. There will be no avoidance of tax on benefits payable to ETSA employees. The tax due on benefits will continue to be paid at the time the benefits are received with no tax being paid before then, as the Commonwealth would prefer. The level of net benefits payable to members of the ETSA schemes will be maintained, just as the net benefits of members in private sector schemes will be maintained.

In future ETSA employees will pay their contributions to the Treasurer instead of paying their contributions directly to the trustees of the ETSA superannuation funds. The Treasurer is required under the Bill to pay into the fund an amount equal to the periodic contributions paid by members to the Treasurer. The Treasurer will meet the cost of all benefits payable in terms of the rules, and may seek reimbursement of the cost of these benefits from both the fund and ETSA. The Bill establishes the ETSA Superannuation Board which will be responsible for administering the scheme, the provisions of the Bill and investing the fund on behalf of the Crown.

Clauses 1 and 2 are formal.

Clause 3 replaces section 18 of the principal Act. Section 18 is the only provision in the Act providing for benefits on termination of the employment of an ETSA employee. Its place will be taken by new section 18 and new Part IVB. The new Part deals with the principal superannuation scheme and section 18 will cater for additional schemes such as the 3 per cent scheme.

Clause 4 inserts new Part IVB. This Part establishes the structure on which a superannuation scheme can be established by rules made by the ETSA and approved by the Treasurer (see section 43*l*). The provisions of the Part are similar or identical to the provisions in the Superannuation Act, 1988. Under section 43*l* ETSA must establish a scheme and must make rules relating to the establishment and operation of the scheme. ETSA may vary the rules on the recommendation of the Board or to bring them into conformity with the State scheme. Division IV provides for the payment of contributions and benefits. Contribution must be paid to the Treasurer who must pay an equivalent amount to the fund for investment by the board. All benefits must be paid by the Treasurer but the amount of those payments may be charged against the fund and ETSA. A later provision says that the assets of the fund belong to the Crown. The purpose of these provisions is to ensure that Commonwealth income tax is not payable on the income of the fund. Division V provides for the fund, its investment and auditing. Division VI provides for contributor's accounts. Division VI provides for reports. Clause 5 provides a transitional provision in relation to the establishment of the scheme.

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

ADJOURNMENT

At 12.7 a.m. the Council adjourned until Thursday 6 December at 11 a.m.