LEGISLATIVE COUNCIL

Thursday 21 March 1991

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

FREEDOM OF INFORMATION BILL (No. 2)

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

That the sitting of the Council be not suspended during continuation of the conference on the Bill.

Motion carried.

QUESTIONS

HANDICAPPED CHILDREN

The Hon. R.I. LUCAS: I seek leave to make an explanation before asking the Minister representing the Minister of Education a question on the subject of education for the severely handicapped.

Leave granted.

The Hon. R.I. LUCAS: Last October, in response to the Opposition's statement that there were major problems in the educating of children with disabilities, the Bannon Government announced a supposed 'new deal' for disabled students. The response by the Minister came after a report by Flinders University special education expert, Dr David Thomas, entitled '21 Australians' found that there was, and I quote, 'a large gap between policies, promises and reality' in the Education Department.

Dr Thomas's report found, among other things, that 60 per cent of families with disabled children rated their experiences with primary or secondary schools as unsatisfactory or mixed. Nearly three out of four families complained about gaining access to professional services such as speech therapy. He also found that: 'the recent experiences of too many parents reveal woefully inadequate provisions in several important services', and, later, 'a negative attitude to integration from many principals and teachers in regular schools'.

In the *Advertiser* on 1 October 1990, in an article headed 'Fresh look at educating handicapped', the Government announced that the Education Department and the Health Commission had agreed on a new joint approach to the integration of severely handicapped children into mainstream schools. The article quoted the Director-General of Education as saying the agreement (which had to be approved by Cabinet) gave his department the power to ensure that the integration of disabled children into ordinary schools really worked. Dr Boston also said curriculum negotiating groups would be set up to consider, among other things, what special facilities would be needed at a school. These might include special showers or toilet facilities, or paramedical personnel.

I gather the first of what one would have expected to be several integrated education units is to be established at Salisbury Park Primary School. This unit was supposed to have been operational by early 1991; however, the latest advice obtained by my office is that it is 12 months behind schedule. Plans for the substantial upgrading of the existing school and new constructions have only now reached the plans for approval stage.

My office has been informed by several sources that the delay has been caused by wrangling between the Education Department and the Health Commission over where their responsibility for the integration program ended. As a result, up to a dozen young children who would have benefited from this 'new deal' in education are still missing out.

The Salisbury Park integrated education unit at this stage appears to be a one-off. This is despite predictions that it will quickly fill its maximum of 12 places and that a similar type of unit, which has operated as a pilot at Christies Downs Primary School for several years, is, to quote one Education Department staff, 'bursting at the seams' with 26 disabled students. My questions to the Minister are:

1. Why has there been a 12-month delay in getting the Salisbury Park Primary School integrated unit for the handicapped up and running and was it related to departmental wrangling over responsibility for services and resources?

2. Does the Minister consider that, with a maximum student capacity of 12, the Salisbury Park unit will be adequate to meet the demands of handicapped children in the northern suburbs?

3. What plans are there for similar Salisbury Park type units to be set up in other suburbs around the metropolitan area? What is the projected capital expenditure for this program during the next three years and the timetable for commissioning the units?

4. Has the supposed 'new deal' announced on 1 October 1990 now been approved by the Cabinet and, if so, will the Minister release details of the new policy?

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

VIDEO GAMING MACHINES

The Hon. K.T. GRIFFIN: I seek leave to make a brief explanation before asking the Minister of Consumer Affairs a question about video gaming machines.

Leave granted.

The Hon. K.T. GRIFFIN: A report in today's newspaper suggests that the Government has had discussions with the Licensed Clubs Association and the Australian Hotels Association in relation to the installation of video gaming machines in clubs and hotels. In fact there is a suggestion that there may already be some agreement with the Government about the timetable. Such a decision will undoubtedly make such machines readily accessible to the community, particularly to children who are prevented from gaining access to the casino but who have access to clubs and hotels. The Minister may remember that when legislation to allow keno in hotels and newsagents was before Parliament last year, I did move amendments to prevent access to those facilities by children. The Minister then opposed those amendments and said that access to gambling by children was a broader question that the Government should and would look at. If there has been any discussion in relation to licensed clubs and hotels one would expect the Minister, as the Minister responsible for the Liquor Licensing Act in particular, to have had some information about those discussions. So, my questions to the Minister are:

1. Has the Government or the Minister of Consumer Affairs, or any other Minister, had discussions with any interest groups about the wider availability of video poker/gaming machines to hotels and clubs? If so, can he indicate when the discussions occurred, what was the nature of those discussions and with whom they were held?

2. Has the Government reached an agreement or understanding with any body relating to the installation of

machines in hotels and clubs and, if so, what is that understanding?

3. What has the Government done to address the issue of accessibility of persons under 18 years to these sorts of machines and other forms of gambling?

4. Does the Minister support the wider availability of video gaming or poker machines in clubs and hotels?

The Hon. BARBARA WIESE: I have received correspondence from both the Licensed Clubs Association and the Australian Hotels Association about the introduction of video gaming machines or some other form of gambling into hotels and clubs—

The Hon. C.J. Sumner: Every year for the last 10 years.

The Hon. BARBARA WIESE: As the honourable Attorney-General reminds me, this is a contact that has been made by those organisations over quite a long period of time, particularly because the Licensed Clubs Association has advocated for a number of years that they ought to be allowed to have these machines in their premises. I believe it is fairly common knowledge that in the latter part of last year, in particular, the two organisations representing hotels and clubs made it known publicly that they believed they should have access to such machines in their members' premises, particularly if these machines were going to be introduced into the Adelaide Casino. I believe their feeling is that they may be at some disadvantage in the marketplace if they do not have access to the machines which have now been installed in the Adelaide Casino.

The two organisations have made their views known to me. I understand that they have also made contact with the Minister of Finance, who is responsible for the Casino Act. I am not able to say whether other Ministers have been contacted with respect to this matter. I have not consulted any of them about this. I am also unaware whether any Minister has given these two organisations any understanding about the future introduction of these machines into their premises, but I would be very surprised if any Minister had given any sort of an understanding, because I do not think that any Minister would be in a position to do so. I think it would be the view of the Government that this matter ought to be determined by Parliament and, therefore, individual Ministers would not be in a position to make any agreements with any organisations.

As to the question of accessibility of minors should such machines be introduced into licensed premises, I suggest that that matter would be taken into consideration, along with the many other issues that would need to be resolved should Parliament determine that it is desirable to extend these gambling facilities more widely in the community, as has been suggested by the two interest groups.

As to my own position on this issue, I have no objection, personally—not that my personal view is particularly relevant—to such machines being made available to other forms of licensed premises. Of course, I would be interested in participating in further discussion with the representative bodies and with parliamentary colleagues and others about how such a facility could be brought in and under what conditions.

The Hon. K.T. GRIFFIN: I have a supplementary question. In the light of the Minister's answer to the first two questions, will she make inquiries of other Ministers about the nature of discussions and whether any agreement or understanding has been reached or given by any of those Ministers?

The Hon. BARBARA WIESE: I gave a clear indication that it would be highly unlikely for any Minister to have made any agreement or given any sort of understanding, because they are not in a position to do so. However, if the honourable member wishes to press the point, I will consult with my colleagues. I am quite certain that the reply I bring back will be very much in keeping with what I have already said here.

GOVERNMENT BUILDINGS

The Hon. DIANA LAIDLAW: I seek leave to make a brief explanation before asking the Minister for the Arts and Cultural Heritage a question about unoccupied Government-owned buildings on North Terrace.

Leave granted.

The Hon. DIANA LAIDLAW: In January 1987 the State Government purchased for $2 million two adjacent properties at 203 and 207 North Terrace—one a three-storey Italianate warehouse and the other a two-storey Gothic-style former doctor's surgery and residence built in 1901. The properties, which are heritage listed, stand alongside John Martins and opposite the State Library. They were purchased for development as an exhibition space to be utilised by the Art Gallery of South Australia. Today the buildings remain unoccupied—deserted and apparently forgotten. Windows are boarded up, the cedar floorboards on the ground floor are littered with debris, the cedar panelled ceilings are covered with years of dirt and the marble fireplaces are blocked up.

Papers that have come into my possession reveal that in 1988 the then Department for the Arts proposed a scheme involving the sale of the properties to a private investor who would renovate them to accommodate a gallery and office space and then lease them back to the department on a long-term basis. For this purpose, the papers also reveal that the department had asked the Oberdan Group of companies to purchase and redevelop the properties and that the Oberdan Group had prepared a number of floor plans which met the requirements of the department and provided a reasonable commercial investment for the developer.

In January 1989, I note that the former Director of the Art Gallery, Mr Daniel Thomas, forecast that 'subject to ministerial and Cabinet approval the site could be operating as a gallery by the end of 1990'. Also, correspondence dated 5 January 1989—and I have that correspondence here—from Mr Womersley, Manager, State Heritage Branch, to the Design Architect in SACON reveals confidence that an acceptable design solution for the heritage buildings could be resolved.

As I understand that early next month (possibly on 8 April) State Cabinet is to consider final funding approval for extensions to the Art Gallery behind the existing gallery, what are the Government's plans for the buildings at 203 and 207 North Terrace? Are the buildings to be sold to help pay for the proposed extensions to the Art Gallery, or are they to be retained to help relieve at some later stage the chronic space problems being experienced by the South Australian Museum and the State Library?

If the buildings are to be retained, when will the Government exercise its responsibility to ensure that these heritage listed buildings do not fall into utter disrepair and become a sick and sorry blot on the landscape of North Terrace, a thoroughfare, which the Government aims to promote (and I know that this is a joint aim of the Minister for the Arts and Cultural Heritage and the Minister of Tourism) as the focus for cultural tourism in Adelaide? Finally will the Minister ascertain what holding costs the Government incurred due to the fact that the buildings have remained unoccupied since the Government purchased them over four years ago?

The Hon. ANNE LEVY: In response to those four questions, I point out that the two buildings concerned are not under the control of the Department for the Arts; they are under the control of the Minister of Housing and Construction through SACON and what used to be Public Works. To answer fully the honourable member's questions I will need to get a report from the responsible Minister. As I understand it, the current plan is at some stage to dispose of the properties.

Despite the correspondence that the honourable member has quoted, a decision was made that the buildings would not be suitable for exhibition space for touring exhibitions. Extensive costs would have been involved in renovation and, because of their heritage status, there would be limits on what could be done to the interiors, and the resultant space would not be adequate for Art Gallery touring exhibitions. For that reason, that line was not continued by interested parties. As a result there are the plans to build extensions to the Art Gallery as announced prior to the last election.

As I understand it, there is no plan to use the space for other institutions along North Terrace, but again I will need to consult with the Minister responsible. That I will do and bring back information as soon as possible.

AUDITOR-GENERAL'S REPORT

The PRESIDENT: In reply to the question yesterday of the Hon. Mr Griffin in relation to the Auditor-General's Report, I have this response:

Dear Mr President,

I refer to your communication of 20 March 1990 concerning the Auditor-General's Supplementary Report to Parliament.

The Supplementary Report is in the process of preparation and it is anticipated that it will be presented to you and the Honourable the Speaker of the House of Assembly in April 1991.

For your information I advise that the Auditor-General's Supplementary Report for the year ending 30 June 1989 was presented to Parliament on 29 March 1990.

Yours faithfully,
K.J. Bockmann,
Deputy Auditor-General

KANGAROO ISLAND TOURIST RESORT

The Hon. I. GILFILLAN: I seek leave to make a brief explanation before asking the Minister of Tourism a question about the proposed tourist development at Flinders Chase, Kangaroo Island.

Leave granted.

The Hon. I. GILFILLAN: I have lived on Kangaroo Island for the past 40 years and am acutely aware of the geography of the island and the fragile nature of areas such as Flinders Chase and those surrounding it. The Government's acceptance of a Japanese company's plans to build a $35 million bushland resort near Flinders Chase National Park gives many islanders and others cause for alarm.

This fragile area of the island needs to be properly protected and maintained and that cannot be guaranteed if there is the impact of a resort, catering for up to 100 000 visitors a year. It is estimated that the effect will be huge.

To put it into perspective, it is worth noting that Kangaroo Island's biggest town is Kingscote, but if this development goes ahead the next biggest population centre will be the resort itself, and it will compete with Kingscote in size. The impact on the surrounding environment will be dramatic, not the least the impact on water. The area is very prone to salinity problems. There is no underground water in the area; the supplies come from natural catchment in dams. The clearing of land and damming of creeks destroys the natural habitat and contributes to salinity problems. Extra damming for the resort would have a drastic effect on waterways and their habitat and local salinity. The resort developers' President, Mr Ksashi Ikeda, is quoted in the *Advertiser* today as stating:

> . . . we were attracted to Kangaroo Island by its tranquility and wildlife . . .

In the opinion of Kangaroo Islanders, it is that tranquility that must be preserved. This resort is considered to represent a significant threat to the fragile wilderness of that isolated part of the island.

Can the Minister indicate precisely what area has been designated for the development, how much water will be required to supply the needs of the resort, and from where the water will come? Why could the development not have been placed well away from the extremely fragile wilderness area of Flinders Chase? Are there any extracurricular activities planned for the resort, such as golf courses, bush buggy rides and wilderness mono-rails, and how will they impact on the environment? If not, will the Minister give an undertaking that they will not be approved on the grounds of potential devastation to the natural environment? Who will the operators be? What will be the State Government's contribution towards the project in terms of infrastructure, equity or loans? How many jobs will be available to the islands? What will be the direct financial advantage to the island and how will it flow on to the local community?

The Hon. BARBARA WIESE: It is very difficult to believe that members like the Hon. Mr Gilfillan maintain this constant opposition to useful development in this State.

The Hon. I. Gilfillan interjecting:

The PRESIDENT: Order!

The Hon. BARBARA WIESE: It really is rather exasperating to hear the list of questions that the honourable member is asking when, if he read this morning's newspaper, he would also be aware that the proposed development by the System One company is the development which was approved some time ago by the planning system and the courts. So, all the environmental concerns that the honourable member has raised have been addressed appropriately through the planning system.

The honourable member is quite right in saying that there was opposition to the original proposal by one conservation organisation. No objections whatever were lodged against the original proposal by any people on Kangaroo Island, and I remind him of that fact. The Nature Conservation Society opposed the original development proposal and the matter was considered in the normal way in the planning system. Eventually, it ended up in the courts, because the society appealed to the court and the court upheld the right of the original proponent to undertake the development.

That project has been purchased by the Japanese company System One and, as I understand it, although it has not yet finalised its plans for the development, it is broadly in agreement with the original concept for the development on the site, which is known unfortunately as Tandanya. Although the company agrees broadly with the original proposition, I am informed by the new owners that they would like to scale down the development to some extent so that instead of catering for a maximum of 600 people at any one time they would like to scale that down to cater for a maximum of 480 people.

I remind honourable members that it is the developer's intention to proceed with this development in three stages. The first stage, which I hope can be completed by the end of 1992, would cater for about 160 people. In the intervening six years that System One proposes to take to complete

the development a number of the issues relating to the movement of people to various parts of the island and the provision of additional minor infrastructure projects that will enable the proper management of people will be taken good care of by the councils, and by the work already undertaken by Tourism South Australia in providing an infrastructure development program to the value of about $1 million since 1986.

Indeed, I would not be surprised if System One was not willing to provide some of the additional work that needs to be done in various parts of the island, because the company has indicated to me that it regards the Kangaroo Island environment highly and wishes to construct a development in keeping with the island and its environment. The company is very conscious of the burdens that could be placed on the fragile areas of the island and it wishes to work closely with the officers of the National Parks and Wildlife Service, councils, Tourism South Australia and any local community organisations to ensure that the amenity they value so highly can be preserved.

I understand that the new owners are currently negotiating with an Australian company that has experience in managing bushland style accommodation facilities, and it is their intention that local people should be employed in this accommodation facility. They are keen to work with local people in providing local jobs, buying local produce and working with other operators in the tourism industry on Kangaroo Island.

As a long time resident of Kangaroo Island, I would have expected the Hon. Mr Gilfillan, instead of criticising this development and implying some sort of slur on the people who are proposing to develop this site, to applaud the initiative, if he has any regard at all for his fellow citizens on the island, because there is no doubt that, as the Hon. Mr Gilfillan has pointed out in this place, the rural industries that have formed the mainstay for the Kangaroo Island economy are in severe trouble—severe decline. The island's economy must be diversified if people are to have jobs and if the lifestyle of Kangaroo Island is to be preserved. So, it seems to me that this—

Members interjecting:

The PRESIDENT: Order! There is too much conversation.

The Hon. BARBARA WIESE: —development provides an ideal opportunity for the people on the island to work with the new owners of this development to see that this facility is up and running as quickly as possible, to boost the local economy and to provide jobs for the local people—jobs which, I remind the honourable member, will not be available if the project does not get up and running. I hope the Hon. Mr Gilfillan will become informed about this development, as other people on the island have, and he will join them in welcoming the proposal that was announced today.

The Hon. I. GILFILLAN: As a supplementary question: is it true that the Government has enthusiastically approved this project before being able to answer any of the questions that have been asked—concerning, for example, availability of water, the areas involved and the number of jobs?

The Hon. BARBARA WIESE: I made it perfectly clear that the environmental issues, including the availability of water, were among those issues that were addressed in the normal way through the planning process when the original proposition was presented to Council by the previous owners of this project. The matter has been investigated and dealt with and, finally, approved, through the usual processes of planning law. I think the honourable member can therefore be assured that there is sufficient water, that the area of land to be developed is deemed appropriate and in accordance with the planning requirements and that there will be a large number of jobs for Kangaroo Islanders—jobs which do not currently exist—and the honourable member should applaud that.

WORKCOVER

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

Leave granted.

The Hon. L.H. DAVIS: I have had a complaint from a small business proprietor about the operation of WorkCover. A few months ago one of his employees injured a finger at work. It was only a minor injury—nothing was broken—but under WorkCover this employee was required to have physiotherapy at a public hospital for 30 minutes a day, three days a week, just for this finger. However, WorkCover paid this employee for each trip to the hospital for physiotherapy, at the rate of 40c per kilometre. The distance from the employee's home to the hospital was 30 kilometres, which makes a round trip of 60 kilometres, which was the same distance as the employee was required to travel each day to his place of employment. So, in other words, WorkCover compensated the employee 40c per kilometre, $24 per day, three days a week, $72 per week. That went on for many weeks, and that compensation was on the ground that the employee had used his car to travel to hospital, although my understanding is that public transport was available for this employee.

The employee's net weekly take-home pay was just over $300, so this extra $72 per week represented an increase in salary effectively of nearly 25 per cent. Both the employer and the employee, who are on good terms, could not believe such generous compensation. The employee admitted he had never had it so good. He frankly admitted that this 25 per cent boost to his weekly earnings meant that he was in no hurry to get back to work, and the employer told me he could well understand why South Australia had the highest average premium for WorkCover of any State in Australia.

Does the Minister of Small Business accept this example as yet another noose around the neck of small businesses in South Australia, given that it provides no encouragement for the employee concerned to return to work earlier and requires additional funding from employers? Secondly, will she as Minister of Small Business act on behalf of small business to achieve an early reappraisal and, hopefully, a readjustment to WorkCover's general travel expenses scheme?

The Hon. BARBARA WIESE: I am not in a position to make judgments about the case that the honourable member has raised but, if he would like to provide me with details, I will be very happy to refer it to my colleague the Minister of Labour and have him investigate the circumstances. Of course, he will not be able to do that without knowing the name of the individual involved. If the honourable member would like that investigation undertaken and could provide the information, I would be happy to refer it on to the Minister of Labour.

HERITAGE BUILDINGS

The Hon. J.C. BURDETT: I seek leave to make a brief explanation before asking the Minister for the Arts and

Cultural Heritage and Minister of Local Government Relations a question about heritage buildings.

Leave granted.

The Hon. J.C. BURDETT: Parts of this matter may fall within the responsibility of some of the Minister's colleagues and she may need to consult them. I refer to an article on the front page of yesterday's *City Messenger* headed 'Plague killing the city's heritage buildings', and I quote from it, in part, as follows:

> Heritage buildings in the city are being killed off by 'the plague'—fire safety laws which are too tough, says a leading businessman. Malcolm Reid furniture managing director, Mike Harbison, said his Rundle Street store, an institution for more than 100 years, had become a 'pigeon loft' because of Government fire safety rules. Mr Harbison said his shop was forced to close under the weight of a $2 million upgrade bill to ensure the heritage-listed store met fire safety regulations.

He is quoted as saying:

> Because it's an old building, you can't get the rent you need to justify that sort of expense.

Further in the article, it is reported that:

> The Austral Hotel could be the next heritage building to be killed off by a demand to upgrade its fire safety measures. [He said that] the council and State Government should relax the strict rules for heritage buildings and provide financial [assistance] to their owners. The Building Fire Safety Committee, comprising members of State and local governments and the fire brigade, enforce the law. City council building surveyor Huub van der Pennen said the committee could not bend fire safety rules for the sake of business. 'If he says it is "the plague" then he'll have to find the right doctor,' Mr van der Pennen said.

I suggest that the State Government might be the 'right doctor' to find a solution. Mr van der Pennen went on to say:

> . . . four heritage buildings in Rundle Mall had partly closed because their owners could not afford upgrading costs. But two of those buildings were reopened within a couple of years.

I am not asking for the rules to be bent, but I am asking whether the rules can be reframed to allow within them for heritage buildings, consistently with public safety. Will the Government consider recasting the regulations relating to fire safety in heritage buildings in order to seek to preserve the heritage buildings (because otherwise they might be lost) and to enable them to operate in the business field and remain viable consistently with public safety?

The Hon. ANNE LEVY: As Minister for Local Government Relations I no longer have any responsibility for building control or fire safety measures. Those measures have been transferred to my colleague, the Minister for Environment and Planning, coming under the planning section of her department. Also, through the Heritage Branch, she has responsibility for heritage buildings. My title of Minister responsible for arts and cultural heritage refers to movable cultural heritage, not the built cultural heritage, of this State. So, I will refer the honourable member's question to my colleague and bring back a reply.

FREE STUDENT TRANSPORT

The Hon. DIANA LAIDLAW: I seek leave to make a brief explanation before asking the Minister for the Arts and Cultural Heritage, representing the Minister of Transport, a question about free student transport.

Leave granted.

The Hon. DIANA LAIDLAW: From 15 December last year the Government reintroduced concession fare payments for students travelling on public transport after 6 p.m. This move acknowledged public disquiet about the Government's 24 hour, seven days a week free student travel scheme that had been introduced some 12 months earlier. When announcing this fundamental change to the scheme, Transport Minister Blevins claimed he wished '. . . to assess students' behaviour during the summer holidays'. He also stated that, contingent upon this assessment, the Government might abolish free travel for students at weekends and during holidays. Students returned to schools some six or seven weeks ago and, as I understand it, the STA has now finalised its assessment of student behaviour on public transport during the Christmas/New Year school holiday period. I ask the Minister:

1. Did the assessment note any change in the incidence of graffiti and vandalism?

2. Does he or the STA propose to release the report and, if not, why not?

3. Based on the report's findings, does the Government plan to reintroduce unlimited 24 hour, seven days a week free student travel, maintain the present restrictions—that is a concession fare after 6 p.m.—extend the restrictions to include weekends and holidays, or axe the scheme completely?

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

RURAL ASSISTANCE LOANS

The Hon. PETER DUNN: I seek leave to make a brief explanation before asking the Minister representing the Minister of Agriculture a question about rural assistance loans.

Leave granted.

The Hon. PETER DUNN: I refer to a letter that I received from some people in the South-East regarding rural assistance loans. It states:

> We estimate that if wool prices stay at about their present level and the wool tax is set at around 30 per cent—

and that is what it is now—

> then the gross margin per dry sheep equivalent (DSE) will be of the order of $6 to $8 per DSE run as sheep. For an average family farm running 5 000 to 6 000 sheep this is just sufficient to cover the overhead costs, that is, administration, insurance, rates, fuel, vehicle costs and repairs. If farmers in this category add the amount that they are required to spend on interest, loan repayments, living, life assurance, superannuation, medical, education and farm improvements then they will obtain a measure of their likely cash deficit in the next financial year. Thus, a sheep farm with the relatively modest debt level of $200 000 paying 15 per cent interest could be looking at a deficiency of $50 000-100 000 next year unless wool prices rise.

The letter goes on to explain that concessional loans, available from the Rural Assistance Branch, start at 10 per cent and, after three years, rise to 15 per cent. However, they are paid back on a credit foncier basis and, therefore, work out at 10 per cent, and their repayments are approximately 13.2 per cent per annum. When the interest rises to 15 per cent, their repayments on the sum borrowed work out at 17.1 per cent. The letter explains that commercial bank rates are less than that, because you can obtain interest-only loans. My understanding is that in Victoria and New South Wales the Federal rural assistance grants given to those States are used to pay interest subsidy only of up to 5 per cent, and they are on loans that have been commercially borrowed. That was a scheme ably put to the Liberal Party prior to the last election in South Australia. My questions to the Minister are:

1. Has the Minister of Agriculture given any thought to this system of funding rural enterprises?

2. Will the Minister give consideration to improving the present not so helpful system in South Australia?

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

SOUTH AUSTRALIAN HOUSING TRUST

The Hon. J.F. STEFANI: I seek leave to make a brief explanation before asking the Minister of Tourism, representing the Minister of Housing and Construction, a question about the South Australian Housing Trust.

Leave granted.

The Hon. J.F. STEFANI: In response to a series of questions that I raised last year concerning the failed development and the defunct sale of the Angas Street property, the Minister advised me that since the developer, Tricon Corporation, had been placed in liquidation the Housing Trust had exercised a bank guarantee which it held and which represented the value of 10 per cent of the purchase price. As a result, in July 1990 the sum of $860 000 was received by the South Australian Housing Trust. The South Australian Housing Trust had, in its 1988-89 annual report, declared an extraordinary profit of $5.771 million, and in the following year proceeded to reverse that amount of income, because the sale and the development of the property had fallen through, leaving the empty site. My questions to the Minister are:

1. Has the Government finalised the sale or development of the property with any other developer?

2. What holding costs have been incurred by the South Australian Housing Trust on the empty Angas Street site?

3. Has the Government considered any alternative use of the existing building and other facilities which have remained empty for almost two years?

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

ROAD CLOSURES

The Hon. J.C. IRWIN: I understand that the Attorney-eral has an answer to a question I asked on 14 February. I would be happy to have the answer incorporated in *Hansard.*

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

Leave granted.

1. In my view, section 59 of the Summary Offences Act 1953 is not confined to permitting the Commissioner to give directions to police officers when roads are likely to be unusually crowded as suggested by the honourable member. I take this view because of the wording of subsections (6) and (7). Section 59 (6) provides that a direction under section 59 must be given by publication of the direction in a newspaper or in such other manner so as to ensure that the direction will come to the attention of those who, by their actions or presence, are likely to cause, or contribute to, the crowding of the street, road or public place. Clearly, if the direction was to be given to police officers only, it would not be necessary to publish that direction in a newspaper. Further, it would not be expected that police officers are likely to cause, or contribute to, the crowding of the street, road or public place 'by their actions or presence' as envisaged by section 59 (6) *(b)*. In addition, the wording of section 59 (7) assumes that compliance with a direction is to be compliance by members of the public, not by police officers.

The honourable member stated that section 59 of the Summary Offences Act does not apply directly to the public and is for regulating traffic. I advise in general terms that section 59 (2) envisages that the directions given pursuant to that section may be in relation to vehicular traffic of all kinds, including parked vehicles, and to people. I consider that parked vehicles are contemplated by section 59 (2) because the Commissioner may give directions regulating traffic 'of all kinds' and for 'preventing obstructions'. Even if parked vehicles do not constitute traffic 'of all kinds', parked vehicles may cause obstruction and therefore are within the contemplation of section 59 (2) *(b)*. The honourable member is probably correct in his assertion that 'regulating' does not mean prohibiting (see *Tarr v Tarr* (1972) 2 All ER 295, 302, *Birmingham and Midland Motor Omnibus Co. Ltd v Worcestershire County Council* (1967) 1 WLR 409, *Ward v The Folkestone Waterworks Company* (1890) XXIV QBD 334, *Municipal Corporation of the City of Toronto v Virgo* (1896) AC 88, *Attorney-General for Ontario v Attorney-General for the Dominion* (1896) AC 348. However, even though a direction 'regulating traffic of all kinds' may probably not prohibit parking in a given area, the giving of directions prohibiting parking is probably permissible pursuant to the power to give directions 'preventing obstructions' (section 59 (2) *(b)*).

2. Section 359 of the Local Government Act 1934 was enacted in 1986 by the Local Government Act Amendment Act 1986. To my knowledge, section 359 has not been used to control or prohibit traffic or for the closure of streets or roads in relation to the Skyshow or any other special occasion. However, in my view, that section does not envisage the type of situation arising in relation to Skyshow and other events. I take this view for the following reasons. Section 59 of the Summary Offences Act was enacted in 1953 in the Police Offences Act 1953 which subsequently became the Summary Offences Act. Thus, Parliament was aware of the existence of that section when section 359 of the Local Government Act was enacted. Section 59 of the Summary Offences Act is directed specifically at 'special occasions'. By contrast, section 359 of the Local Government Act is a more general section which could be implemented in a number of different circumstances. Further, section 59 of the Summary Offences Act clearly envisages wide dissemination of any directions given under that section. However, a resolution pursuant to section 359 (2) provides that a council may by resolution revoke or vary any such resolution. This provision seems to preclude a council from passing a resolution pursuant to section 359 which is expressed to be for a limited period only. This would clearly be inconvenient in relation to an event such as Skyshow where the duration of the occasion can be predicted in advance. Finally, I note that the mayor or chairman of a council is specifically named in section 59 (2) of the Summary Offences Act. The application of section 359 to similar occasions would therefore be unnecessary.

3. In my view, there is no discrepancy in the implementation of the two provisions.

WILLUNGA BASIN

The Hon. J.C. IRWIN: I understand that the Minister of Local Government Relations has the answer to a question I asked on 21 February.

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

Leave granted.

My colleague, the Minister for Environment and Planning and Minister of Water Resources, has advised that there

are no plans to involve the Willunga Basin as an alternative site to Gillman for the multifunction polis. The limited sewerage scheme proposed for the Aldinga Beach/Port Willunga area is based on a system of deep drainage as is used elsewhere throughout the majority of the metropolitan area in Adelaide, not common effluent. The Willunga council will not be involved in any direct financial outlay towards the cost of the sewerage scheme, but will continue to progressively install a stormwater drainage system in the area to alleviate stormwater soakage problems.

TANDANYA

The Hon. L.H. DAVIS: I understand that the Minister for the Arts and Cultural Heritage has an answer to a question I asked on 12 March 1991 about Tandanya.

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

Leave granted.

Further to the information provided to the honourable member on 12 March, I reiterate that the Government has a policy of prompt payment of accounts to all businesses at all times. Where terms are applicable to a transaction. Government agencies are required to make payment within the time specified. All other accounts are to be paid within 30 days of receipt of the invoice or claim. I must reiterate however that Tandanya is an independent organisation funded by the Government, not a Government agency bound by the Government's policies regarding payment of accounts.

I understand that the Administrator is handling the outstanding accounts as a matter of high priority and every attempt is being made to pay Tandanya's creditors as soon as possible with the resources available. It is anticipated that all accounts will be settled within the next few weeks.

There are in excess of 200 individual outstanding trade accounts valued at approximately $139 000 dating back to September 1990, and accounts totalling $29 000 relating to Government agencies. I see no useful point in wasting the Administrator's valuable time providing details of individual amounts outstanding. His time will be much better utilised arranging for the accounts to be processed and creditors paid.

Some penalties may be incurred by Tandanya where payment terms indicate that interest or other charges are payable on overdue balances. Tandanya will not be seeking to pay interest on all outstanding amounts as it can obviously ill afford to do so. Tandanya is however appreciative of the patience extended by its creditors, and assures them that all outstanding accounts will be settled as soon as possible and within the next few weeks.

I can assure the honourable member that the Government has taken and will continue to take whatever action it can to expedite payment of all private and public sector accounts as they become known.

REPLIES TO QUESTIONS

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

Leave granted.

Mr R. FREDERICKS

In reply to **Hon. K.T. GRIFFIN** (13 February).

The Hon. C.J. SUMNER: The Minister of Correctional Services has provided the following response to the honourable member's question.

1. Mr Fredericks has been placed at an approved agency in the city, namely, the St Vincent de Paul Night Shelter in Whitmore Square. His work there includes general cleaning (including the toilets and showers), meal preparation and kitchen duties and can include tasks such as laundering and general maintenance.

2. Under section 47 *(e)* of the Criminal Law (Sentencing) Act a person is required to perform community service 'for not less than four or more than 24 hours each week . . .'

Under section 47 *(h)* a person may not be required to perform community service 'at a time that would interfere with his or her remunerated employment . . .'

At the outset, Mr Fredericks stated that as he was being persecuted by the press in this State he had to seek employment interstate. He was required by the community service officer to provide written evidence of his employment. Mr Fredericks produced a letter dated 17 September 1990 on the printed letterhead of a firm named Exhaust Lock (Aust.) Trust, Suite 21, 61-63 Carrington Street, Adelaide. This letter and subsequent letters regarding Mr Fredericks's employment was signed by Mr Andrew Coker, Trustee. This letter stated that Mr Coker was employing Mr Fredericks as the Australian distributor for his firm, his position being to appoint wholesalers/retailers to retail automotive products through demonstration of the product (an anti-theft device). The work required Mr Fredericks to drive/fly to all Australian States and his working hours were flexible.

Thus to accommodate Mr Fredericks's interstate employment and the legal requirements of the Act that he work 'not less than four hours per week', he has been working the Friday and Saturday at the end of one week, together with the Sunday of the following week, a block of three days. This arrangement of his community service meets the requirement of the Act that community service not interfere with his remunerated employment. To date Mr Fredericks has completed 200 of the 320 hours ordered by the court.

3. Supervision is provided at two levels. For administrative purposes, that is, induction into the scheme, providing proof of employment, seeking permission to leave the State, keeping a cumulative tally of hours worked, the community service officer employed by the Department of Correctional Services is responsible for supervision.

His placement, in the agency where he is performing the community service work and direct supervision of his duties at the agency, is a joint responsibility between the community service officer and the manager at the night shelter. The manager is present whilst Mr Fredericks is performing his tasks, and the community service officer visits once during each working day to check on the situation.

4. Mr Frederick does not appear to be in breach of the condition of his bond requiring him to perform 320 hours of community service and obey the lawful directions of the community service officer to whom he is assigned. Section 50 (1) *(a)* (iii) requires that he obtain his supervising officer's written permission before leaving the State for any reason, and Mr Fredericks obtain that permission each fortnight.

When the community service work component on the bond has been completed, Mr Fredericks will not be required to seek anyone's permission to leave the State, as there is no condition in the bond limiting his movements in any way.

POLICE ATTENDANCES

In reply to **Hon. K.T. GRIFFIN** (21 February).

The Hon. C.J. SUMNER: The Minister of Emergency Services has provided the following response to the honourable member's question:

The Hon. K.T. Griffin, M.L.C., received a complaint from a Mr Taylor of 1 Glenrovala Street, Brahma Lodge, concerning the police response time to his premises regarding a housebreaking and queries if Para Hills Police have sufficient staff to carry out their duties.

On 20 February 1991 between 9.00 p.m. and 10.00 p.m. an unknown offender broke into premises at 3 Glenrovala Street, Brahma Lodge and stole a handbag and contents belonging to the female owner. She went into Mr Taylor at No. 1 to report the theft. As a result Mr Taylor checked his premises and discovered that his house had also been broken into by an unknown offender and a handbag stolen. This offence apparently occurred while Mr Taylor was present in his house.

About half an hour later Mr Taylor rang the Police Communications Centre and spoke to a male telephone operator. The officer established that the neighbour's housebreak had been reported and took details from Mr Taylor in order for the patrol to attend at his premises when it attended next door. There was no indication that the offender may still be in the area. The precise details of this call were recorded on tape—a check of the tape supports the above comments.

Mr Taylor was informed that all patrols were busy and that there would be a one to two hour delay before a patrol could attend at his location. He made no comment of urgency, and accepted this information.

This tasking was given priority 'B', as there was no offender on the premises, the offender was not known and no member of the public was in danger. Taskings at this time were high, and the priority 'A' taskings took precedence of this matter. A check of the communications centre computer records clearly indicates a peak in workload, involving priority 'A' taskings at about that time. A patrol attended and took both reports of housebreakings approximately 1½ hours after the initial report.

Para Hills subdivision has more patrol personnel than any other division or subdivision as they have a particularly heavy workload. This workload should be alleviated to some extent by the formation of the Regional Response Group based at Holden Hill. This group should free up the patrols from attending some behaviour related offences to concentrate on more urgent taskings. In April 1991, 10 further patrol personnel will be stationed at Elizabeth and this will have the effect of not requiring back-up by the Para Hills patrols in the Elizabeth area.

QUESTIONS RESUMED

TANDANYA

The Hon. DIANA LAIDLAW: I understand that the Minister for the Arts and Cultural Heritage has an answer to a question I asked on 13 February concerning Tandanya.

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

Leave granted.

The total cost of Tandanya's overseas trip was $122 313. These costs were partially offset by income received, amounting to $25 496, leaving a deficit to date of $96 817. The income figure mentioned includes an amount of $5 697 which was generated through the sale of works of art.

Negotiations are still in progress regarding the return of remaining works of art and retail items to Australia, at an estimated cost of $3 000. This matter is one of the many tasks being handled by Tandanya's temporary administrator. Once the works of art are returned it is conservatively estimated that a refund of value-added tax amounting to $20 000 will be received. This and other sundry income still outstanding will reduce the overall deficit of the trip to $79 115. It is anticipated that the paintings returned will eventually be sold through Tandanya's retail outlet with the proceeds further reducing the trip's deficit.

RUHE COLLECTION

The Hon. DIANA LAIDLAW: I seek leave to make a brief explanation before asking the Minister for the Arts and Cultural Heritage a question about the Ruhe collection.

Leave granted.

The Hon. DIANA LAIDLAW: As the Minister would be aware, for some 18 months I have asked questions about the status of the Ruhe collection and the possibility of its purchase by the South Australian Museum. I asked such a question on 22 November last year and sought to ascertain when the Government would hear that the estate of the late Professor Edmund Ruhe would be wound up. The Minister stated:

> On my latest information, that is not expected to occur until February or March of next year.

February was last month and we are now in the middle of March, so my question is: has the Minister or the Premier's office received advice that the estate of the late Professor Edmund Ruhe has been wound up and, if so, have negotiations commenced between the Government on behalf of the Museum and representatives of the estate to determine a purchase price and whether South Australia is able to meet that price and therefore purchase the collection?

The Hon. ANNE LEVY: My latest information is that the estate has not yet been finalised, which perhaps indicates that the American legal system works no faster than the Australian system.

REPLIES TO QUESTIONS

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

Leave granted.

TEACHER RATINGS

In reply to **Hon. R.I. LUCAS** (13 February).

The Hon. ANNE LEVY: My colleague, the Minister of Education, has advised that the teacher recruitment process was reviewed in 1990 after extensive consultation. All ratings of applications are based on merit against the selection criteria and are made only after a thorough and comprehensive examination of all information provided by the applicant.

Applicants who have previously submitted an application can retain their rating for up to five years providing they update their application on an annual basis. If an applicant elects to have his or her application re-rated he or she forfeits all previous ratings. There is no program relating to

'downgrading' of teacher ratings. Applications are rated on merit using the current published selection criteria.

MOTOR VEHICLE REGISTRATION

In reply to **Hon. PETER DUNN** (19 February).

The Hon. ANNE LEVY: Section 5 of the Motor Vehicles Act defines a road as:

(a) a road, street or thoroughfare; and
(b) any other place commonly used by the public or to which the public are permitted to have access.

Legal opinions suggest that this definition includes any thoroughfare that does not physically bar access to the public. No distinction is made between main roads, secondary roads or private roads.

Section 9 of the Act states that a person shall not drive a motor vehicle on a road unless that vehicle is currently registered, exempt from the requirement to register, or covered by a permit. Third party insurance is also required in accordance with section 102 of the Act.

A number of concessions and benefits are available to primary producers who are required to use vehicles on roads in the course of their business:

- A 50 per cent reduction in registration fees payable on commercial motor vehicles used for primary production.
- A 75 per cent reduction in registration fees payable on tractors used for primary production.
- A provision in the Act that allows tractors and farm implements to be driven or drawn, without registration, within 40 kilometres of a farm occupied by the owner of the vehicle.
- The availability of long-term permits to drive vehicles between parcels of land owned and worked by the same primary producer. The fee is currently $15 per permit plus the appropriate third party insurance premium.
- A reduction in third party insurance premiums payable on vehicles used for primary production.
- A 50 per cent reduction in registration fees may be applicable to vehicles that are not entitled to a primary producer's concession if those vehicles are wholly or mainly used in outer areas. Outer areas are defined in the Act as the whole of Kangaroo Island, the area of the District Council of Coober Pedy, the area of the District Council of Roxby Downs and all other parts of the State which are not within a municipality, a district council area or Iron Knob.

The matter that the honourable member referred to has indeed been the cause of a deal of consternation among pastoralists in the Gawler Ranges and near Whyalla.

The problem appears to be caused by the interpretation of what constitutes a 'road' under the Motor Vehicles Act and appears to contradict the interest of the Pastoral Land Management and Conservation Act in providing a clear distinction as to which tracks are 'public' and which are not. The Minister of Lands has referred this matter to the Crown Solicitor for advice. In the meantime, as indicated earlier there is provision for landowners to obtain annual permits for movement of farm machinery on public roads, while working separate parcels of land. This issue has also been referred to a public access subcommittee of the Pastoral Board for further attention.

PRIMARY PRODUCER EDUCATION

In reply to **Hon. PETER DUNN** (20 February).

The Hon. ANNE LEVY: The Minister of Employment and Further Education has advised that the so-called 'brain drain' from rural areas is one of the key issues that the tertiary sector will have to address in the near future. It is therefore very pleasing that significant progress has been made in two different educational areas to greatly increase the tertiary courses available to rural students.

South Australian TAFE's interactive video network will take a huge step forward on 22 July, the start of semester 2, when the Spencer Gulf cities of Whyalla, Port Augusta and Port Pirie will be linked with Regency College in the first major use of interactive video technology in this State. In fact, it will be providing Australia with a leading example of what educational video conferencing is all about.

Video conferencing can link lecturers and students even hundreds of kilometres away, in a real interactive way, in effect a bit like a television 'live cross'. They can talk to each other and demonstrate techniques instantly. This system has vast potential for developing learning skills in remote areas, in Aboriginal communities and in workplaces.

Another exciting development which will be of great advantage to country people is a collaboration between Flinders University and the Goyder (Port Pirie) College of TAFE. This year 27 students have enrolled in a foundation course based at Port Pirie which will lead on to a degree course at Flinders University next year for which Flinders will be making 20 special places available.

As well, the Minister is hopeful that Flinders University will be offering first year science in Port Pirie in 1992 and that the program will be offered in other country centres in the near future (Mount Gambier and Riverland). In terms of ensuring that courses are relevant to rural people, the South Australian Department of Employment and TAFE has in the past three years restructured its academic awards to target the needs of those involved in farm management. New courses have been introduced—the Certificate in Rural Mechanical Maintenance, the Certificate in Rural Office Practice and the Certificate in Rural Management.

All DETAFE courses are developed in close consultation with members of rural communities to ensure that the content and methods of delivery meet the needs of clients. The DETAFE courses available currently are:

Certificate in Animal Attending;
Certificate in Basic Wool Preparation;
Certificate in Forestry Technology;
Certificate in Introductory Timber Technology;
Certificate in Pest Control;
Certificate in Rural Mechanical Maintenance;
Certificate in Rural Office Practice;
Certificate in Weed Control;
Certificate in Advanced Forestry Technology;
Certificate in Animal Care;
Certificate in Horse Studies;
Certificate in Jockey Practice;
Certificate in Meat Inspection;
Certificate in Rural Management;
Certificate in Timber Technology;
Certificate in Woolclassing;
Associate Diploma in Animal Technology;
Certificate in Endorsement in Woolclassing;
Certificate in Farm Practice;
Certificate in Vocational Education (Animal Management); and
Certificate in Vocational Education (Horse Industries).

TAFE rural colleges also provide an extensive range of short courses to meet the needs of their local communities. Such courses include:

Financial Planning for the 90s;
Sheep Classing;
Auto Electrical;

Computing for Farmers; and
Sheep Dog Training.

Many of these courses are delivered on the farm or in the local communities. For example, the Certificate in Rural Office Practice has over 450 farming students enrolled currently. The course's content provides rural office and basic management skills as well as elective subjects in areas such as rural sociology and land conservation. The students study in schools, TAFE facilities, libraries and council chambers—wherever there is a telephone and a fax. Some are also able to study subjects through the interactive video network.

COUNTRY RAIL SERVICES

In reply to **Hon. I. GILFILLAN** (21 February).

The Hon. ANNE LEVY: The Government will not give the undertaking sought by the honourable member. Under the Railway Transfer Agreement the Government cannot withhold approval where there is no 'effective demand'. If it can be proved that there is 'effective demand', future line closures will be opposed. The agreement of the Minister of Transport's department is not needed before Australian National can close and dismantle rail infrastructure in this State.

Section 9 of the Railways Agreement (South Australia) Act 1975 relates to the closure of lines and the reductions in services by Australian National. It states in part:

9. (1) The Australian Minister will obtain the prior agreement of the State Minister to:
(a) any proposal for the closure of a railway line of the non-metropolitan railways; or
(b) the reduction in the level of effectively demanded services on the non-metropolitan railways,
and failing agreement on any of these matters the dispute shall be determined by arbitration.

The Minister of Transport was not consulted by Australian National regarding plans for the demolition of the rail bridge at Yacka.

QUESTIONS RESUMED

UNIVERSITY OF THE AIR

The Hon. R.I. LUCAS: I seek leave to make an explanation before asking the Minister representing the Minister of Employment and Further Education a question about university of the air.

Leave granted.

The Hon. R.I. LUCAS: I refer to recent press coverage of ABC TV's plans to launch a university of the air. In one article the ABC's Director of Television, Mr Paddy Conroy, has confirmed the corporation is examining ways of introducing university courses. It is planned that a university of the air will follow a similar pattern to the successful BBC television program introduced in Britain about 20 years ago. Today the university, at Milton Keynes, offers students more than 100 courses and has awarded fully recognised arts and science degrees to more than 50 000 graduates.

Mr Conroy was also quoted in one article as saying that the ABC was also discussing what it could do to help national and State education curriculums. I note that yesterday some public reservation was voiced in the media as to whether the ABC had sufficient downtime in broadcasting hours to do justice to a university of the air, and it has been suggested that perhaps television or another independent broadcast medium should be considered in preference.

The possibility of students being able to do a degree through a university of the air would enable many people, presently denied access to tertiary studies due to work or family commitments, to study at higher education level and therefore should be seriously considered. In fact, with today's technology, the possession of a home videotape recorder would enable many students to tape lectures or tutorials and then watch them at night or the weekend when they have free time. At the same time, assuming that there would be some cost to students accessing courses offered by the University of the Air, there could be considerable revenue income potential for the ABC or SBS from student fees. My questions to the Minister are:

1. Does the Minister of Employment and Further Education support the proposal by the ABC to establish a university of the air and, if so, has he had any discussions on this matter with either his Federal counterpart or the corporation?

2. Does he believe that the State education system could benefit by the ABC's offer to help with the school curriculum and, if so, has the Minister or his officers or the Minister of Education had any discussions with the corporation on this matter?

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

NEIGHBOURHOOD WATCH

The Hon. J.C. IRWIN: My question is directed to the Attorney-General. The Attorney-General and the Minister of Emergency Services keep reminding us that the Government does not direct the Police Commissioner. Why is it that, following a recent meeting with the Lord Mayor of Adelaide (Mr Condous) concerning serious crime in and around Gouger Street, the Premier announced that a Neighbourhood Watch scheme would be implemented immediately, jumping a three-year queue? The budget for Neighbourhood Watch comes directly under the Commissioner of Police. While not questioning the need for the inner city scheme, how is it that, at the stroke of the Premier's pen, other priority schemes may be put back some time, or is there special funding for the inner city scheme?

The Hon. C.J. SUMNER: I am surprised that the honourable member apparently does not think that there should be a Neighbourhood Watch scheme in the inner city area or, if he does think that there should be such a scheme, that it should not take priority over a number of other Neighbourhood Watch matters. I will check the funding with respect to this matter and bring back a reply.

INNER LOBBIES

The Hon. R.J. RITSON: I seek leave to make a very brief explanation before asking you, Mr President, a question about the inner lobbies.

Leave granted.

The Hon. R.J. RITSON: Since I last raised this matter and you, Sir, notified Government groups by letter, there has been a fall-off in the number of Government officers and ministerial assistants using the long lounge, although there was one last night. However, your efforts have produced an improvement. Unfortunately, friends and guests of members of another place, or employees of another place, who do not usually have inner lobby privileges, continue to enter the long lounge from the inner lobbies by the refreshment room, I think leaving the library. The rule of five guests per member seems now to be honoured in the breach rather than in the observance. Could you, Sir, hold discus-

sions with the Speaker as to the use of that lounge as a thoroughfare by people employed in this building who do not have inner lobby privileges and by members of another place who conduct more than five guests through?

The PRESIDENT: I am happy to discuss it with the Speaker. I have sent circulars to all the Ministers. All members are aware of this as they have received circulars and the rules of the Joint Parliamentary Service Committee have been distributed to them. I have discussed the matter with my Clerks and a sign has been ordered for the outside of the door on the inner lobbies to indicate that it is private and for members only. I hope that that will help rectify the position.

STATUTES AMENDMENT (CRIMINAL LAW SENTENCING) BILL

The Hon. C.J. SUMNER (Attorney-General) introduced a Bill for an Act to amend the Criminal Law (Sentencing) Act 1988, the Children's Protection and Young Offenders Act 1979 and the Correctional Services Act 1982 for which leave was granted on 19 March 1991. Read a first time.

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

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

Since the Criminal Law (Sentencing) Act 1988 'the Act' came into operation on 1 January 1989, a number of areas have been identified which require clarification or amendment. The issues relate to a number of diverse matters including the setting of non-parole periods, the enforcement of community service orders and pecuniary sums and the action to be taken on breach of a bond. This Bill seeks to make amendments to address these matters. It also makes a number of consequential amendments to the Correctional Services Act 1982 and the Children's Protection and Young Offenders Act 1979.

Section 16 of the Act provides that a court may impose a fine without recording a conviction. However, there is no such power when making an order for community service or imposing a fine and/or doing community service (section 18). From time to time a defendant asks the court to make an order for community service in lieu of paying a fine principally because they are worried about their ability to pay a fine. In such a case, the court should be able to decide whether or not a conviction should be recorded. Therefore an amendment is proposed to section 16 to allow a court to impose a fine, a sentence of community service, or both a fine and community service without recording a conviction.

The Children's Protection and Young Offenders Act will also be amended to enable the Children's Court to impose a community service order without recording a conviction. This is an important amendment as it should further encourage the Children's Court to use community service orders as a sentencing option for young offenders.

This Bill also amends the Act to enable the Parole Board, or, in the case of a young offender, the Training Centre Review Board to take action, on their own volition, to vary or revoke the conditions of release for persons detained pursuant to section 23, or to cancel release.

Section 23 of the Act provides for the detention of offenders incapable of controlling their sexual instincts. Section 24 allows for the release of a person on licence subject to conditions specified by the appropriate board, that is, the Parole Board, or in the case of a young offender the Training Centre Review Board. Section 24 (5) allows for the Crown or the person to apply to the appropriate board for a variation or revocation of a condition of licence or the imposition of further conditions, and for the Crown to apply for cancellation of release.

The Chairperson of the Parole Board has indicated that she considers that it is a flaw in the system that the board does not have power to cancel, release or vary or impose conditions or to cancel release on its own volition. If a matter comes to the board's attention which in the board's opinion makes it desirable to change or remove a condition, the board, at the present time, is obliged to ask the Crown to apply to the board before the board can act.

The Government accepts that it is anomalous that the appropriate board can set the conditions of release but is not at liberty to vary the conditions of licence on its own motion, or to cancel release for breach of condition.

The Bill addresses the problem by enabling the appropriate board to cancel, release or vary or impose conditions, or cancel release, on its own motion. However, before doing so, the board must give reasonable notice to the person and to the Crown and consider any submissions made by the person or the Crown in relation to the matter. The Parole Board has also recommended that the Act be amended to permit the Crown to apply for a non-parole period to be fixed in respect of prisoners who are liable to serve greater than one year imprisonment and where no non-parole period has been fixed.

There are currently five life sentenced prisoners without non-parole periods. Four refuse to apply for a non-parole period. Subject to the exercise of the Governor's prerogative of mercy, a prisoner serving a term of life imprisonment without a non-parole period can never be released under the current legislation. Prisoners without release dates create problems for the Department of Correctional Services. Placement, sentence plans and resocialisation programs are based on the projected release date of prisoners. The proposed amendment to section 32 (3) of the Act will enable the Crown to apply for a non-parole period on behalf of a prisoner.

Currently, there is no power under the Act to extend the time within which community service can be performed. The Act provides that a time limit must be set. Section 44 of the Act provides that a court may, on the application of the probationer or the Minister of Correctional Services, vary a condition of a bond which presumably would enable the time within which community service is to be performed to be varied provided it was a condition of a bond. However, under the Act, community service is not part of a bond unless a suspended sentence of imprisonment has been imposed. Clause 11 of the Bill makes clear that a court can extend the period of a bond to enable community service to be performed by a period up to six months.

An amendment to section 75*l* of the Children's Protection and Young Offenders Act will allow a court to extend the period within which community service can be extended.

The amendment in clause 14 of the Bill will allow a court, on the application of the appropriate officer, the Minister, or the person who is liable under the terms of an order of a court, to perform community service to: vary or revoke the order; or extend the period of the order during which community service is to be performed by up to six months.

The Bill also provides for the Minister to remit unperformed hours of community service in certain circumstances. The new provision is similar to the present section 44 (2) of the Criminal Law (Sentencing) Act 1988 which deals with variation or discharge of a bond. Sometimes a person has substantially performed a community service order but because of some extraneous reason, for example, employment, or serious illness, it would not be appropriate to require him or her to continue to perform community service.

Section 47 of the Act covers the operation of community service work in particular in relation to hours and conditions of work. The provisions cover offenders undertaking community service orders or bond, and working off fines under the fine option program. The continuous growth in the number of offenders placed upon both programs provides opportunities to undertake a wider range of work projects. The numbers also pose difficulties from time to time in obtaining suitable programs. The Department of Correctional Services wishes to use opportunities, with approval, to undertake tasks where more than eight hours can be credited in one day. The most recent example is a proposal to assist Steam Ranger in track repair and maintenance. To be effective, the offenders assigned to the project will have to reach a city assembly point by 7.30 a.m. to be transported to the worksite. If they finish work at 4.30 p.m. they would not arrive back in the city until 6.00 p.m. In effect, their day may be from 6.00 a.m. to 7.30 p.m. To provide an incentive, travelling time from the pick up point to the worksite and return would be an equitable arrangement. That would exceed eight hours.

Therefore to provide greater flexibility in the scheme, an amendment is proposed to section 47f of the Act to allow for community service for a period exceeding eight hours in circumstances approved by the Minister. A consequential amendment is also made to section 74aa of the Correctional Services Act 1982 which deals with the power of the Parole Board to impose a community service order for breach of a non-designated condition.

The Bill also amends the provisions relating to action on breach of a bond. Section 57 (4) of the Act provides that 'If a probationer is found guilty of an offence by a court other than the probative court, being an offence committed during the term of the bond, the court... if it is of an inferior jurisdiction to the probative court, must arraign the probationer to the probative court for sentence.'

The effect of this is that only the probative court can deal with the breach of the bond. It would mean that if the bond is breached by a subsequent offence the summary court dealing with that offence would be obliged to remand the offender to the higher court for sentence. Under the Offenders Probation Act, proceedings taken against a probationer for a breach of bond or to revoke a suspended sentence were referred to or commenced in the probative court leaving the inferior court to sentence on the subsequent offence.

The amendment to section 57 will return to the earlier position. Where a probationer is found guilty by a court of superior jurisdiction to that of the probative court, any proceedings for breach will continue to be taken in the court of superior jurisdiction. Problems have also arisen where the bond ordered by a court is one which could have been ordered by a court of summary jurisdiction. For example, where the Supreme Court on hearing an appeal from a Magistrates Court, orders that the appellant enter into a bond. The Supreme Court would then be the probative court. Clause 4 *(c)* of the Bill inserts a new provision into the Act to provide that, in the case of appeals where a substituted sentence is ordered, the bond should be deemed to be an order of the original court.

Until recently, it was the practice of courts, when enforcing payment of overdue pecuniary penalties that had been imposed on actions initiated by private complainants (for example, councils, the Taxation Department, private individuals) to seek the permission of the complainant to enforce payment, and to seek the payment into court of a fee to cover the cost of issuing the warrant.

However, it has since been decided that there is in fact no requirement to seek a complainant's permission to enforce an order of the court, and that recovery of the warrant fee may be achieved by means other than by collecting it from the complainant. This decision has given rise to a procedure now having being adopted by appropriate officers whereby warrants of commitment are issued without any contact or consultation being made with the complainant.

This has caused concern that if a pecuniary sum imposed by a court is paid direct to a complainant, and the complainant neglects to advise the court accordingly, an appropriate officer may, notwithstanding that payment has been made, issue a warrant of commitment on the basis of court's record of default. In order to ensure that persons are not wrongfully imprisoned, the Act should be amended to provide that subject to any order of the court pecuniary sums are payable only to the court.

New section 59a inserts such a provision into the Act. Section 61 (2) of the Act currently prohibits the issue of a warrant of commitment for imprisonment on an overdue pecuniary penalty until a period of one month has elapsed from the due date for payment. If a court orders the forthwith payment of a pecuniary penalty section 61 (2) of the Act precludes the immediate issue of a warrant of commitment. This can have the effect of delaying the issue of the warrant until after the release from custody of the defendant. The warrant must then be served and the person committed to prison.

Clause 21 of the Bill amends section 61 of the Act to provide that where a person is in default of payment of a pecuniary sum and is already serving or liable to serve some other term of imprisonment a warrant of commitment may be served forthwith and the imprisonment to which the person becomes liable by virtue of the warrant will be cumulative on the other term unless the court that imposed the order for payment of the pecuniary court (or a court of coordinate jurisdiction) otherwise directs.

A similar amendment is proposed to section 75b (2) of the Children's Protection and Young Offenders Act 1979.

Section 71 of the Act deals with a failure to comply with a court order. The provision allows the appropriate officer to sentence the person to imprisonment, issue a warrant and if appropriate direct that the term be cumulative upon any other sentence or sentences. It does not provide an alternative where the appropriate officer is satisfied that the failure to comply with the order was trivial or that there are proper grounds upon which the failure should be excused.

Therefore, an amendment is proposed to section 71 to allow the court in such cases to:

refrain from sentencing the person to a term of imprisonment in respect of the default;

extend the term of the order by such period, not exceeding six months, as the court thinks fit;

if the term of the order has expired, require the person to enter into a further order, the term of which shall not exceed six months;

or cancel the whole or a number of the unperformed hours of community service.

Throughout the Act, appropriate officers have been given jurisdiction to deal with certain matters, for example, to issue warrants for sale of land and goods, issue warrants of commitments, etc. There has been some criticism that this power should not be vested in appropriate officers. It has been suggested that a preferable position would be for the court to be vested with the power but for the Act to make clear that certain nominated powers of the court are exercisable by appropriate officers. The amendments to section 72 provide for such a scheme in the legislation. Consequential amendments have been made to a number of sections in the Act.

Corresponding amendments have also been made to the Children's Protection and Young Offenders Act 1979.

'Appropriate officer' is currently defined in section 3 (1) to mean, in the case of an order of the Supreme Court or District Court, the Sheriff and in the case of an order of a court of summary jurisdiction, a clerk of a court of summary jurisdiction. The Bill amends this provision so as to enable the Sheriff or any clerk of court to be an 'appropriate officer' for the purposes of the Act. This will facilitate procedures for the Fine Accounting component of the Courts Computerisation Program. Part of the Fine Accounting system will provide for the payment of fines at any court throughout the State.

The amendment would also enable defendants to apply to any court in the State for assessment for community service or postponement or suspension of a warrant. Where defendants have fines imposed by different courts one assessment by the Sheriff, or clerk of court only would be required. Also country residents who have had fines imposed by the Supreme Court or District Court would have easier access to an 'appropriate officer'. The Sheriff may impose conditions on the exercise by clerks of court of powers in relation to orders of the Supreme Court or District Courts.

The amendment will enable a more efficient and equitable service to be provided to the community. This is in accordance with the Social Justice Strategy and the Court Services Department's policy of greater community access to the courts.

Finally, I refer to the amendment to section 84 of the Correctional Services Act 1982. The opportunity has been taken to make clear that a manager of a correctional institution must comply with an order or direction of an officer of court or a member of the Police Force for the purpose of not only executing process or orders of a court or justice, but also any other process or order issued pursuant to law, for example, the process of a tribunal or royal commission.

Clause 1 is formal.

Clause 2 provides for commencement of the measure by proclamation.

Clause 3 is formal.

Clause 4 replaces the definition of 'appropriate officer'. The new definition provides that the Sheriff or a clerk of a court of summary jurisdiction is an appropriate officer (that is, for the purposes of enforcement of the orders of any court). The definition of 'court' is amplified to make clear in the enforcement provisions that a reference to a court is a reference to the sentencing court or a court of coordinate jurisdiction. It is also provided in the definition of 'probative court' that where a bond is imposed by an appellate court, the original sentencing court will still be regarded as being the probative court.

Clause 5 provides that a sentence of community service may be ordered by a court without imposing a conviction.

Clause 6 is a consequential amendment.

Clause 7 provides that the Parole Board (or the Training Centre Review Board in the case of a child) may, of its own motion, vary or revoke a condition of a release on licence of an habitual offender or cancel such release. If a board takes such action on its own initiative it must notify the Crown and the offender and consider their submissions. The amendments to subsections (6) to (12) are consequential.

Clause 8 empowers the Crown to apply to a sentencing court for a non-parole period to be fixed in respect of a prisoner.

Clause 9 deletes references to 'appropriate officer' and substitutes 'court'. (Later provisions in the Bill will deal with the question of exercise of certain court powers by appropriate officers).

Clause 10 is consequential on the amendments effected under clause 11.

Clause 11 empowers a probative court to extend (by no more than six months) the period within which a probationer is required to perform community service and, if it does so, the term of the bond is automatically extended to the necessary extent, even if it goes beyond the three year limit.

Clause 12 empowers a court to make ancillary orders accompanying a community service and supervision order.

Clause 13 empowers the Minister to approve the circumstances in which a probationer can be required to perform more than eight hours of community service on any particular day.

Clause 14 enables community service orders to be varied, or ancillary orders varied or revoked, by a sentencing court. New section 50b empowers the Minister to cancel unperformed hours of community service if there has been substantial compliance with the order or bond, there is no intention on the part of the offender to evade the obligation and there is sufficient reason for not insisting on full compliance.

Clauses 15 and 16 substitute 'court' for references to 'appropriate officer'.

Clause 17 has the effect of deleting the current requirement for courts of inferior jurisdiction to that of the probative court to remand probationers who have reoffended to be sentenced by the probative court not only for the breach of bond but also for the further offence. From now on, the lower courts will sentence for the further offence and then, if breach of bond proceedings are instituted, they will be instituted in the probative court of superior jurisdiction.

Clause 18 provides that a court dealing with a breach of bond may extend (by not more than six months) the period within which community service is to be performed, extend the term of the bond, cancel unperformed hours or make any other variation to the bond.

Clause 19 substitutes 'court' for references to 'appropriate officer'.

Clause 20 requires all pecuniary sums to be paid to the court, even though the court order may be in favour of a particular person (for example, an order for compensation).

Clause 21 re-casts the provision that provides for imprisonment on default of payment of a pecuniary sum. The liability to imprisonment is statutorily imposed at the prescribed rate if the person has been in default for more than a month. If the person is already in prison or liable to imprisonment, a warrant may be issued (notwithstanding that the default has not been for a month or more), and the term to be served under the warrant will be served cumulatively unless the court that imposed the pecuniary sum orders otherwise.

Clauses 22 to 28 substitutes 'court' for references to 'appropriate officer'. Clause 28 also includes a consequential amendment.

Clause 29 re-casts the provisions dealing with default in performance of community service orders. As with pecuniary sums, the liability to imprisonment is statutorily imposed at the prescribed rate. Imprisonment pursuant to a warrant issued under this section will be served cumulatively to any existing term of imprisonment unless the court that imposed the community service orders otherwise. The court may, if the default was trivial, refrain from issuing a warrant and may extend the order (by not more than six months) or cancel unperformed hours.

Clause 30 repeals the provision that provided that no right of appeal exists against orders of appropriate officers and replaces it with a provision that states that appropriate officers may exercise certain powers on behalf of courts. Any appropriate officer may exercise those powers on behalf of any court (subject to any provision to the contrary in rules of court or the regulations, and subject to restrictions laid down by the Sheriff in respect of clerks of summary courts). Subclause (5) gives a right of review of decisions made by appropriate officers. This right can be abrogated by rules of court or the regulations.

Part III amends the Children's Protection and Young Offenders Act.

Clause 31 is formal.

Clause 32 provides that an order for community service may be made against a child without recording a conviction.

Clause 33 provides that the Minister can approve the circumstances in which a child may be required to perform more than eight hours of community service on any particular day.

Clause 34 is a statute law revision amendment substituting 'guarantor' for references to 'surety'.

Clause 35 makes similar amendments to section 61 and also gives the court power, when dealing with a child for breach of bond, to cancel unperformed hours of community service.

Clause 36 substitutes a reference to Children's Court for a reference to 'appropriate clerk'.

Clause 37 re-casts section 75b so that it is modelled along the lines of the equivalent provision in the Criminal Law (Sentencing) Act. Detention is automatic for children who fail to pay pecuniary sums for a month or more. This kind of detention will be served cumulatively on any other existing detention unless the Children's Court orders otherwise.

Clauses 38 and 39 are consequential on statute law revision amendments.

Clause 40 transfers the power to postpone or suspend warrants back to the Children's Court, but provides that, unless rules of court provide to the contrary, this power may be exercised by a clerk of the court. If a person is aggrieved by a decision made by a clerk, the decision may be reviewed by the Children's Court (unless rules of court provide to the contrary).

Clause 41 removes references to 'appropriate clerk'.

Clause 42 provides that, in dealing with a child for breach of a community service order, the Children's Court may, if it refrains from sentencing the child to detention, extend the order or impose a further order for no more than two months so that the child can complete the community service, or may cancel any unperformed hours.

Part IV amends the Correctional Services Act.

Clause 43 is formal.

Clause 44 provides that the Minister may approve the circumstances in which a person can be required to perform more than eight hours of community service on any particular day, where the Parole Board has imposed the community service.

Clause 45 makes clear that the duty of a prison manager to comply with the execution of process of a court or court officer extends to the process of other bodies such as tribunals, royal commissions, etc.

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

NATIVE VEGETATION BILL

In Committee.

(Continued from 20 March. Page 3796.)

Clause 30—'Evidentiary provision, etc.'

The Hon. DIANA LAIDLAW: The Liberal Party opposes this clause, which relates to evidentiary provisions. It is quite clear from subclauses (1) and (2) that the Government has introduced a reverse onus of proof that the landowner is deemed to be guilty in the absence of proof to the contrary. This is particularly difficult when one considers that that property may be leased or operated by other persons. We think it is a particularly onerous provision, even more so because amendments which I sought to move earlier to provide for the commencement of proceedings within three years failed. The Government and the Democrats insisted, with the authorisation of the Minister, that proceedings could be commenced any time up to six years from the date of the alleged offence. That provision, combined with these evidentiary provisions for reversing the onus of proof, we find entirely unacceptable in the circumstances.

The Hon. ANNE LEVY: The Government opposes the removal of clause 30. There obviously must be evidentiary provisions within legislation, and we in no way feel that these are unreasonable. The first one relates to its being taken, unless proved contrary, that vegetation that has been removed is of species indigenous to South Australia. Obviously, unless the department or the prosecuting authorities believed that these were species indigenous to South Australia, they would not take that action, and no action would be taken if it was species not indigenous to South Australia. So, the very fact that action is taken or that proceedings occur is an indication that it is thought they are native species. If the defence is that they are not native species, it is not unreasonable for the person to indicate why they feel they are not species indigenous to South Australia.

With regard to the second point, proceedings are taken against the landowner and, again, it is not unreasonable to presume that the landowner has control over what happens on his property. It is the normal presumption which the law makes, that a landowner is responsible for what happens on his property. If he was not responsible for the clearance which has occurred illegally, he should know who undertook that clearance if, as a land-holder, he knew what was happening on his property. It is certainly not an unreasonable presumption to take it that a land-holder knows what is happening on his own place.

The Hon. PETER DUNN: That speech demonstrates the naivety of the Minister, and I will just explain that from the last part of her statement. What happens if a landowner has several large native trees in the corner of his paddock down by the corner road, and somebody thinks they are offensive so they go along and put some chemical on the ground—and there are chemicals today (which are used for

the control of hard-to-kill woody weeds) that can be just about impossible to detect. The chemical is spayed onto the ground; it is long lasting and is taken up by the root system. It will kill the biggest of trees very rapidly, but the farmer would have no idea who did it, yet the Minister is saying that he would be responsible under this Bill.

I object to this reverse onus of proof. It is being regularly included in legislation that comes before this Chamber, and it is contrary to the English system of law. Because someone (maybe the President) owns a patch of land that he only visits on a weekend, and because someone has killed native vegetation on it, I do not believe that the owner should be held responsible for it. That makes a very difficult situation for the landowner and it is rather ridiculous. If it is quite obvious and the farm owner is charged with killing native vegetation, let the Crown prove its case that it was the owner who set about it. It should not be very difficult. Large patches of scrub or, for that matter, smaller patches, cannot be killed without it being fairly obvious. However, where it involves individual trees that may overhang the boundary or offend a neighbour, for instance, I do not think the landowner should be held responsible unless the Crown can prove without a doubt that he was the person responsible.

With respect to clause 30 (1), will the Minister explain what is a native plant of South Australia? There has been a great blurring of the edges of what is native to South Australia compared with, say, 20 years ago when a Mr Boomsmer, who was attached to the Botanic Gardens, imported a great number of Western Australian native plants to this State. He did a remarkable job because those plants do extremely well in this State. If one drives around the city, one can see many examples of the natives that Mr Boomsmer introduced. I think he is now dead, but he wrote several books on this subject and was really the pioneer in introducing what are deemed today to be natives but are really Western Australian plants. Do they now come under the definition of clause 30 (1)?

The Hon. ANNE LEVY: The honourable member referred to a situation where someone had trees at the bottom part of his property poisoned by pesticides unbeknown to him. I am informed that, to our knowledge, there has never been such a situation. I suppose it is theoretically possible, but it has never occurred.

The Hon. Peter Dunn interjecting:

The Hon. ANNE LEVY: I am not saying it has never occurred but it has never occurred in any situation involving the Native Vegetation Managment Authority, and there has never been a suggestion of prosecution where such a defence was offered. The Government is certainly not out to prosecute people for trivial matters. Every time a tree dies, there will not be a great investigation as to why it has died, and there are plenty of dead trees around the place, I assure the honourable member, as one can see only too well when driving around the countryside.

I also point out to the honourable member (although we have not yet come to it) that clause 36 of the Bill provides:

> It is a defence to a charge of an offence against this Act if the defendant proves that the alleged offence was not committed intentionally and did not result from any failure on the part of the defendant to take reasonable care to avoid the commission of the offence.

If trees are killed by herbicides, it would be quite easy to demonstrate that reasonable care had been taken to prevent such things occurring, and I am sure that 'reasonable care' does not mean a 6ft high fence with electrified barbed wire on the top. I am sure that that general defence could apply in the most unlikely situation which the honourable member has raised.

The Hon. PETER DUNN: I am aware of that, Minister, having unintentionally killed native vegetation when using Diuron, a chemical recommended to kill soursobs that were introduced into my area before they were pests.

The Hon. Anne Levy: Nothing will kill soursobs—

The Hon. PETER DUNN: There are chemicals now, but this chemical had the effect of killing native vegetation six to seven years after it was applied, with no effect in the meantime. That does not cover the person who vexatiously kills a tree by applying a soil borne herbicide which is used today for the control of, for instance, blackberry. One very effective herbicide is named Vorox. It is very slow acting and will take three years sometimes to kill a tree. Why are we spending all this time to define one or two trees, or for that matter, dealing in the legislation with one tree, because one tree can be killed by the owner by using that method, and I do not think that anyone could prove that case. I find this reverse onus of proof not terribly helpful and I will be voting against it for that reason.

The Hon. ANNE LEVY: It is not a reverse onus of proof; it is a reasonable approach to take that a landowner should know what is going on on his own property. If he does not, he can demonstrate that he was unaware of what was occurring. Likewise, it is not unreasonable to have to prove that a species is not indigenous to South Australia, when the fact that civil proceedings are taken means that those taking them believe that it is indigenous to South Australia. *Black's Flora* is a standard work that is consulted far and wide on the flora of South Australia.

The Hon. M.J. ELLIOTT: The Democrats will not support the deletion of the clause.

Clause passed.

Clause 31—'Proceedings for an offence.'

The Hon. DIANA LAIDLAW: I do not wish to proceed with the amendment on file because I moved a similar amendment last night and the Minister justifiably expressed some surprise. When I read it for the first time, I realised that it did not necessarily make sense. In her response the Minister highlighted that fact. It seems that my amendment on file came from those amendments prepared in a rush for another place and there should have been greater consideration given to their preparation. Therefore, I move the following amendment on behalf of the Liberal Party:

> Page 14, line 35 to 37—Leave out 'or, with the authorisation of the Minister, at any later time within six years after the date of the alleged commission of the offence'.

That takes out any reference to the Minister's having a discretion to move for an offence to commence at any time within six years of its alleged commission. That reflects what the Liberal Party tried to achieve in clause 29 but did not.

The Hon. ANNE LEVY: The Government opposes this amendment. I pointed out last night that in the current legislation there is a time period of 10 years within which proceedings can be started. The Government proposes in general that this be reduced to three years, but we must recognise that much native vegetation, particularly in arid areas, is extremely slow growing and the situation could arise where the commission of offence is not evident until longer than three years because of the very slow growing nature of much of our native vegetation, hence the capability to extend the time for proceedings up to six years, which is still four years short of what exists in the current legislation.

Obviously it would only be ever used for the most serious offences, because it does require the authorisation of the Minister. No Minister would authorise something which was trivial and which should have been picked up much earlier. It would only be in exceptional circumstances that

such authorisation would be given, but we believe that there should be provision for it within the Bill.

The Hon. PETER DUNN: The provision has been reduced from 10 to six years between the Lower House and this place, but why does it need to be six years, anyway? If someone knocks down vegetation it will be visible. With today's satellite imagery and high altitude photography, surely it would be evident within months, days or even hours. To suggest that in six years the Minister would charge a person for an offence supposedly committed six years previously is something I cannot fathom. Why would he want to do that? The damage would not be visible because it would be getting better six years down the track. It would be looking better rather than worse. Trees grow. If they died within six years it would more likely be the result of drought than action by the landowner. The only circumstances that could apply would be where vegetation had been grazed, but that would be evident at the time. A stand of native vegetation could have been heavily grazed by kangaroos or goats.

Does the Minister understand that goats can be present one day and be 50 kilometres up the track the next day? They can graze in a paddock where the owner has sheep and, because of drought over the next five years, vegetation can die. If a landowner is to be held responsible for that, it is carrying the matter far too long. It need not be six years. If one cannot determine whether or not vegetation is growing within three years, then the officer determining whether or not vegetation is dying is either not bright or is myopic.

The Hon. ANNE LEVY: The circumstances that the honourable member has raised would not in my opinion constitute exceptional circumstances and so the three year limit would apply. It is only in exceptional circumstances, which would be extremely rare, that the Minister can authorise action up to six years.

The Hon. PETER DUNN: If that is the case, I would like an example. I cannot think of anything, but maybe the Minister can, or take some advice on it, but for heaven's sake, I am not going to legislate for things if you cannot think of what might happen in six years time. Give us a case.

The CHAIRMAN: There being no further speakers, I propose to put the question—

The Hon. PETER DUNN: Mr Chairman, I am asking the Minister whether she could give me an example.

The CHAIRMAN: The Minister said 'No'.

The Hon. DIANA LAIDLAW: Are you assuming, Sir, that the Minister said 'No' or was the 'No' noted on the record?

The CHAIRMAN: I am assuming that the Minister did not want to answer Mr Dunn.

The Hon. DIANA LAIDLAW: Does that mean 'No, there is no example'?

The CHAIRMAN: I do not know what it means; she is simply not answering. I do not have to be the Minister's guardian, nor anybody else's. If the Minister does not wish to respond—

The Hon. DIANA LAIDLAW: I am not assuming that, Mr Chairman; it is just that you indicated that the Minister said 'No'. I did not hear that 'No' and I was trying to clarify the situation.

The CHAIRMAN: My understanding is that the Minister indicated she was not answering. Mr Dunn asked whether she was answering and I said 'No'.

The Hon. DIANA LAIDLAW: That is right; I just want to note that we do not have an answer from the Minister.

The Hon. ANNE LEVY: I indicated that I did not wish to respond; I did not say 'No'.

The CHAIRMAN: That is how I interpreted it.

The Hon. ANNE LEVY: I think members must realise that the department is not staffed with a vast army of inspectors who will roam the countryside continuously trying to find examples of offences against the Act. Of course, occasional matters will be picked up and, if they are picked up within three years of their occurrence, the appropriate action will be taken, but if something is not picked up beyond the three years and it is a very serious example, there should be provision for the Minister to authorise the prosecution. However, I can assure the member it will not be done for trivial matters; it will be done only for serious matters. I may say that I do not wish to answer any further questions on this matter.

The Hon. PETER DUNN: I do not think the Minister understands her Bill. It may not happen while this Minister is in charge of this legislation, but it might happen to someone down the track and it is open to abuse. It is open to vindictive people and, goodness, if it cannot be discovered before six years under satellite imagery and high-altitude photography, I would have thought that any degradation of that vegetation would be just natural degradation. Six years is crazy.

The Hon. M.J. ELLIOTT: I indicate that, consistent with the position I took in relation to clause 39, I oppose this amendment.

The Hon. DIANA LAIDLAW: I see that I do not have the numbers to secure the passage of my amendment. In the circumstances, would the Minister be prepared to accept a qualification that this authorisation by the Minister would be applied only in the most exceptional circumstances—the statement she has just made to this place—and thus clarify the concerns being expressed by some members in this place?

The Hon. ANNE LEVY: It seems totally unnecessary, but if it really makes the honourable member happy, I am prepared to do so. I would strongly reject the inference that any Minister of this Government would be vindictive and I point out that, even if a future Liberal Minister were vindictive, the courts are always there as the protection for the individual concerned.

Members interjecting:

The Hon. ANNE LEVY: This is a question of whether proceedings are taken; it is the courts that determine the outcomes of the proceedings, not the Minister.

Amendment negatived.

The Hon. DIANA LAIDLAW: I wish to move a further amendment to insert after the word 'or' the words 'in exceptional circumstances with the authorisation of the Minister'.

The ACTING CHAIRMAN (Hon. T. Crothers): The honourable member may move her amendment only after recommital of the Bill.

Clause passed.

Clause 32 passed.

Clause 33—'Hindering of members and officers.'

The Hon. DIANA LAIDLAW: I move:

Page 15, line 37—Leave out this line and insert 'an authorised officer, or a person assisting an authorised officer,'.

This is consequential on an amendment passed in the other place some time last week.

The Hon. ANNE LEVY: I am happy to accept it.

Amendment carried; clause as amended passed.

Remaining clauses (34 to 37) passed.

First schedule.

The Hon. DIANA LAIDLAW: I move:

Page 17, clause 1*(b)*—Leave out 'wildlife' and insert 'rare, vulnerable or endangered wildlife'.

This concerns the principles of clearance of native vegetation, and paragraph *(b)* refers to significance as a habitat for

wildlife. 'Wildlife' has been defined in clause 2 of schedule 1 as having the same meaning as in the National Parks and Wildlife Act 1972. The Liberal Party believes that this amendment will clarify that position.

The Hon. ANNE LEVY: The Government opposes this amendment. 'Rare, vulnerable or endangered wildlife' is only a small proportion of the native species in South Australia. If the honourable member's amendment were accepted, it would immediately leave open at least 70 per cent of our native vegetation to no protection whatsoever under the legislation. I would have thought that it certainly would not have been approved of by the honourable member for Hayward in another place, who is dancing up and down about removal of trees such as red gums.

The Hon. M.J. ELLIOTT: The Democrats do not support the amendment.

The Hon. PETER DUNN: I wonder why schedule 1 was put in in this form. I am rather surprised. It seems to me as though the Government, in its wisdom, decided that there would not be any further clearing of native vegetation. Why they did not simply say that right from the word go, I do not know, instead of using this argy-bargy in this Bill under schedule 1—because nothing is left out. In fact, things are repeated over and over again, in schedule 1. It uses the word 'rare' about six times, and I cannot understand why the Hon. Diana Laidlaw's amendment is not accepted, when it simply uses the word one more time. There is nothing I can think of that this does not cover. They could have used one line and said 'There will be no further clearing of native vegetation unless . . . ' and then issued the Bill.

It would have been far wiser. The landowners of this country will look at this and say, 'Well, the Government was really having us on (as the Bill does) in a lot of cases. They weren't game to tell the truth.' Had the Government told the truth, the landowners would have accepted it, with alacrity, I suggest, because they are all aware of what is going on. They understand that there is a need for the retention of native vegetation. However to use this form of stopping them does not go down well with country people. They are a bit straighter than that.

The Hon. ANNE LEVY: The principles as set out in the schedule correspond almost exactly to the current principles which have applied for the last five years.

The Hon. DIANA LAIDLAW: I know that this Bill deals with biological diversity, but essentially it is about native vegetation and plants. In terms of the Minister's lame excuse for not accepting the amendment I have moved, it is interesting that, in relation to plants the Government has been prepared to incorporate as a principle 'rare, vulnerable and endangered species', but not in relation to wildlife. I fail to understand the logic.

The Hon. ANNE LEVY: I do not wish to prolong the debate. The definition of 'wildlife' under the National Parks and Wildlife Act refers to plants and animals. It is not just flora, it includes fauna as well.

The Hon. DIANA LAIDLAW: Plants are referred to in paragraph *(c)*, so therefore you are repeating in paragraph *(c)* what is referred to in paragraph *(b)*, I simply point out that it would appear that, because paragraph *(c)* refers to plants, it may be unnecessary to have it in there, having regard to the Minister saying that paragraph *(b)* includes what is in paragraph *(c)*—although when it comes to *(c)* she is prepared to qualify it with 'rare, vulnerable or endangered'. I am not sure that a great deal of thought and work has gone into this, particularly into the logic of it.

Amendment negatived.

The Hon. DIANA LAIDLAW: I move:

Page 17, clause 1—Leave out paragraph *(g)*.

We are discussing the principles that the council must take into account when determining whether native vegetation should be cleared. Clause 1 *(g)* reads: 'it contributes significantly to the amenity of the area in which it is growing or is situated'. That is a very subjective assessment. Although the Liberal Party may query some of the other principles, as was the case a moment ago in respect of clause 1 *(b)*, at least some of the principles can be measured and an objective stand taken. The principle set out in clause 1 *(g)* is entirely subjective. Further to the comments made by the Hon. Mr Dunn earlier, it essentially suggests that nothing can be cropped, lopped or cut in future, and we believe that this is unneccesary and unwarranted.

The Hon. ANNE LEVY: The Government opposes this amendment. I am honestly surprised to hear the shadow Minister for the Arts and Cultural Heritage moving such an amendment. What she is saying is that, if trees have beauty, beauty is something that should be ignored completely. That is a remarkable line of argument from her. I trust that she is ashamed of it. Amenity is currently a principle under the legislation. There is no change to that principle. We are seeking to repeat it in the principles under the schedule. It is a nonsense to suggest that amenity should not be considered.

The Hon. DIANA LAIDLAW: I indicate that I am certainly not ashamed of my argument. Unlike members of the Labor Party, Liberal Party members are allowed to speak their mind in this place and do not always have to follow the Party line. I am not so two-faced that I would argue what I do not believe, and that applies on this occasion. I have a copy of the Act, and I cannot find the principles in it. Will the Minister indicate whether the principles are contained in the regulations? This is not an area that is my direct responsibility, and I am not completely familiar with the Act or the regulations.

The Hon. ANNE LEVY: I am informed that they are principles of native vegetation clearance which are contained in the State Development Plan, which has status under the Planning Act.

The Hon. M.J. ELLIOTT: While it must be admitted that amenity is purely objective, it is something that the majority of the community thinks is significant in relation to vegetation. In most areas of the State, it is a principle that would never be applied, but there are some locations where the community wants it to be applied. That is reasonable, so the Democrats will oppose the amendment.

Amendment negatived; schedule passed.

Schedule 2—'Repeal and transitional provisions.'

The Hon. DIANA LAIDLAW: I move:

Page 18, clause 1—Leave out subclause (2).

We believe that the Act should be repealed at the date of proclamation. I think we debated this matter in relation to some other amendment. While it could be argued that this amendment is consequential upon amendments debated last night, I have moved it to reinforce the point that we believe that the retrospective aspect of the Bill is unacceptable.

The Hon. PETER DUNN: On 12 May 1983, legislation which was introduced through regulation banned the clearing of any further vegetation. I guess that had some merit because it would have caused a great run on the clearing of vegetation at that time. However, because of the legislation, there was no great run. The applications were in the hands of the vegetation authority at the time and, if they were not, it was legal to make application. To demonstrate the Minister's paranoia about this, I will read what she said in the second reading explanation, as follows:

The Government has decided to include a provision in the Act which will have the effect of removing payment of financial assistance to landowners applying for clearance after 12 February

1991. All applications received up to and including this date will be dealt with on the same basis as previous applications.

This is the crunch:

The Government has felt obliged to take this action following provocative publicity in the media urging landowners to lodge clearance applications before the existing legislation is repealed by this Act.

We could just about run the Minister in on that one. The fact is that landowners could apply and under the old Act it was legal for them to do that; there was nothing wrong with their making applications. For one to say that it was a provocative act of publicity is totally wrong. It was not provocative because it was legal. It was passed in the previous legislation. We spent all that time in 1985 introducing compensation, which was deemed to be necessary by all Parties in Parliament. Yet the Minister stands up in this place and says that this Bill has been brought in for that reason—to stop any further payment.

I suggest that it was introduced to stop any further payment because these people did not vote for this Government and that demonstrates how it looks at the running of this State. The Government could not care less about anyone who lives out in the bush, who dirties his hands, who makes a bit of sweat and who earns a bit of export income for this country. The Government does not care one iota, and the Minister showed that by making that provocative and stupid statement in her second reading explanation. To bring this measure into Parliament, providing as it does that landowners are not allowed to make these applications, even though that is legal, is an insult to every rural person.

The Minister is saying that they were not allowed to make applications for the clearing of native vegetation and subsequently avail themselves of some financial reward because they had been stopped by this Parliament. I am extremely disappointed with that. If that is the way the Department of Environment and Planning runs, and if that is the Minister's advice, we are in for a pretty rough old time, and the Minister can expect that farmers will not be very honest with her. If the Minister continues down that track farmers will do things that she will never find out. I can assure her that they will clear that scrub if she makes stupid, ridiculous statements like that.

I live out there where it actually takes place. Farmers are not too happy about what the Minister has done. Farmers will abide by what is passed in this place, but they do not like being abused because they have done what is legal and is their right.

How many applications were received in the past couple of months? There were very few indeed. To cut that out on 13 February when the Bill is not even proclaimed is an insult to everybody, particularly so soon (that is, less than five years) after the original Bill was proclaimed. The Government has not been honest all through this debate, since day one on 12 May 1983. It has done everything in its power to abuse primary and rural producers in this country. In my opinion the Government has done nothing to raise its stocks at all. Farmers would have helped out had the Government been honest with them, but it was not honest with them. Indeed, the Government is being dishonest with them again. For that reason we oppose the cut-off date of 13 February.

The Hon. ANNE LEVY: I must refute a number of the preposterous allegations that the Hon. Mr Dunn is making. It is not true that this Government has not put a great deal of money into the existing legislation. As I indicated the other day, in a five year period $40 million has been put into the rural economy through the Native Vegetation Management Act. I do not think anyone can suggest that that is ignoring the country or not contributing to the rural economy. I hope that the honourable member would have sufficient generosity of spirit to recognise the enormous contribution that that has made to the rural economy in this State.

The honourable member also said that this suddenly snuck up on people, or words to that effect. On the contrary, this legislation had been discussed extensively down to very fine details, with many groups of people, prior to the announcement on 13 February. Such consultation certainly included the UF&S and other representatives of rural people. The announcement was made on 13 February that the legislation would be changed and that from that day the new system would apply. It is not a surprise to people that the announcement on 13 February was given extensive coverage in all forms of the media, particularly the rural media, and officers—

The Hon. Peter Dunn: Why did you call it 'provocative publicity' in the second reading explanation?

The CHAIRMAN: Order! The honourable Minister.

The Hon. ANNE LEVY: Officers of the department undertook considerable media explanation of what was being proposed, and there was very wide coverage of the Government announcement of 13 February. Prior to 13 February there had been provocative announcements and a good deal of stirring up, not from departmental sources, I hasten to add, and an announcement, such as this, of a changed policy was obviously expected in many quarters, partly of course because of the extensive consultation which had occurred. But, it had been used by some people. In fact, in the three days prior to 13 February there were 150 applications for clearance of native vegetation. For the honourable member to pretend that applications are rare—

The Hon. Peter Dunn: That was illegal, was it?

The Hon. ANNE LEVY: I am not suggesting that they were illegal, but—

The Hon. Peter Dunn: Then don't bring it up; it was quite legal.

The Hon. ANNE LEVY: I bring up this matter in relation to the honourable member's comments that applications are infrequent; that they dribble in; and that there is no rush on them. In three days 150 applications were received, and that belies his comments. The announcement was made on 13 February that it would apply from that date. It is very common for Governments, not just in South Australia in other States or the Commonwealth of Australia but all around the world, to indicate that a change will occur on a particular day and that it will apply from that day, so that people do not take unfair advantage of the time gap between a decision being announced and its being implemented.

The Hon. M.J. ELLIOTT: I made clear that I would not support any amendment to change the date. It was known in the rural community for a very long time that there was going to be a cut off. Anybody who wished to make an application was in a position for a long time to know that time was limited. While you can argue about what the precise cut-off date was going to be, I suggest that, if they were serious, they had a considerable period—perhaps as long as almost 12 months—to make those applications. It was agreed (and I thought even the Liberal Party at one stage agreed) that there was a need for a cut-off date.

It was recognised that there was a need to divert the moneys into looking after vegetation, having got past the simple protection stage. Now, some people have gone around encouraging people to get in applications which I think are more along the lines of 'cash out your bush; make what money you can out of it'. This is happening rather than the money being used in the way that was originally intended,

namely, for those legitimate cases where people were wanting to clear and were being denied the chance.

People have had chances for over five years to apply under the old Act. They have had 12 months warning that there is to be a cut off. I would argue that anyone who legitimately wanted to apply for clearance has had their time. By extending the time, probably another 50, 100 or 150 applications will come in, and that will be millions of dollars going out which otherwise would have been spent for the purposes that we now want the money to be spent—

The Hon. Peter Dunn interjecting:

The Hon. M.J. ELLIOTT: Well, it will be. You just said that applications were trickling in, yet it has already been made quite clear that something like 150 applications came in during the few days just before 13 February. You can argue about over how long a period that occurred, but they came in quite close to that cut-off date. If we open it up, there could potentially be another couple of hundred applications, and that is money that would be diverted away from what it really should have been spent on.

I have made quite clear, and the Democrats have made clear, that legitimate cases should have been entitled to compensation. If we had not insisted on that in the Upper House, along with the Opposition, that would not have got through before. We are now saying that all legitimate claims should have been made, and we will not stand by with money being simply diverted away from what is the next proper use in relation to native vegetation.

Amendment negatived.

The Hon. DIANA LAIDLAW: My next amendment is consequential and it would have provided a new commencement date. As I have lost the amendment to clause 1 (2), I will not proceed with my next amendment on file.

Schedule passed.

Schedule 3—'Amendments to the South Australian Heritage Act 1978.'

The Hon. M.J. ELLIOTT: The debate on this Bill is about to terminate for the time being because of a conference. I want to take this opportunity to express my concern about the pressures that are developed in this place when we have a very important Bill such as this one, with significant amendments being debated, whilst we have a conference operating on another Bill of equal significance. I have only just circulated some amendments, and I apologise to the table staff for the need to have to remove some old amendments and include some new ones. It is all a consequence of trying to agree to timetables and trying to get this legislation passed. My apologies to the table staff.

The CHAIRMAN: I do not want to cut across the honourable member, but it is for the House managers—Ministers and Whips—to organise the business of the Chamber. It is not the business of the President.

Schedule passed.

Title passed.

Bill recommitted.

[*Sitting suspended from 4.34 to 10.55 p.m.*]

Clause 3—'Interpretation'—reconsidered.

The Hon. M.J. ELLIOTT: Before moving my amendment I should like the record to show that the Hon. Ms Pickles has been busy at the typewriter trying to get the amendments ready for this evening. It has been something of a circus today with a conference running almost concurrently with this sitting of the House through much of the day. Every time one walked out of a conference one was back in discussions on the Native Vegetation Bill. It has been quite a ridiculous situation, finally getting to the point where one member of Parliament was typing out amendments so that they could be put before the House. I am grateful to the Hon. Ms Pickles for her work and noble efforts with the word processor and the photocopier. It has been a most unsatisfactory way of treating legislation. Again, I must say that I am extremely distressed that adequate time has not been provided to look at this Bill properly when there has been good will in trying to sort out the few clauses. I only hope that what we are putting before the Committee now is adequate. I move:

Page 2, after line 8—Insert a definition as follows:
'isolated plant'—see subsections (2) and (3).

Perhaps I may explain the purpose of having a definition for 'isolated plant.' There are circumstances in which it might be argued that it is reasonable that native vegetation may be removed where it is not part of a complete community of plants. That plant more often than not is a tree standing in a pasture with no other native plants close to it. One example where a clearance application may be put in for such an isolated plant might be for the putting in of a centred pivot irrigation system. What is envisaged is that, in circumstances where there is an isolated plant, it may be allowed to be cleared but under fairly strict guidelines.

There are more amendments still to be circulated, when the photocopier has done its deeds upstairs, which will indicate that the Native Vegetation Council will have the capacity in relation to one or two isolated plants to allow clearance at variance with the guidelines under which it normally operates in relation to native vegetation. It also envisages the possibility in some circumstances of more than two isolated plants. Those circumstances would require the concurrence of every member of the Native Vegetation Council before such clearance could go ahead.

There is no doubt that some people would be distressed to see some of these isolated plants taken down. There is no absolute right for isolated plants to be removed. It is still absolutely at the discretion of the council. If the council chooses to do so, it may require plantings of native vegetation such that, at the end of the day, there is an absolute benefit to the environment. So, while isolated plants may be lost, there will be a requirement that, in their place, there would be significant plantings of native vegetation that would probably offer a variety of plants of the same species. In time, there will be a community of plants in place of those isolated plants that have been lost, and more habitat will be produced than has been lost with those few trees.

As I said, it is not absolute. It is not guaranteed that isolated plants can be cleared. That has to be a determination of the council. The council must have unanimity if it is to allow three or more plants to be removed but, for one or two plants, it is a simple decision of the Native Vegetation Council. That is an outline of what I am hoping to achieve. I will give more detailed explanations in relation to the other amendments in due course.

The Hon. PETER DUNN: Last night I went into some detail about this measure. We accept that there is some change to last night's proposal and this is slightly better, but how stupid can you be! Under the Bill, seven members will be elected to determine whether it is one or 20 plants that a landowner wants to knock down, and they have the ability to do that in other legislation. However, because one, two or three plants are on their own, different criteria are used. I fail to understand the logic of that.

For instance, there might be one single plant standing in a paddock that everyone wants to remain. Under this legislation, the plant can be cleared and the committee does not have much choice. It needs only a majority of the committee to approve the application, and the vegetation can be cleared. That is unusual when we have gone to the

trouble of nominating a committee of seven, not five; the membership has been increased. Why not leave it to them to make up their mind whether the plants should or should not be cleared? There is a preponderance of people on that committee who have vegetation at heart. It has been set up for that purpose. Surely they will look after the well-being of native vegetation.

I realise that I do not have the numbers on this matter. However, it defies logic to go to the trouble of setting up a committee to determine which plants we can clear for everything else but, when it comes down to a few, the criteria are different. There might be 20 plants that are fairly useless but, according to the honourable member's criteria, if one of the council members does not agree, they cannot be cleared. It defies logic. I will agree, but only under protest.

The Hon. ANNE LEVY: As I understand it, what the Hon. Mr Elliott is attempting to do with this series of amendments involves very much what the Hon. Mr Dunn is concerned about, that is, the exceptional circumstance when the principles must be discarded. The legislation contains general principles that will be followed by the council and everyone else. However, in exceptional circumstances, it is recognised that the principles can be abrogated, and the conditions under which that can occur must be stricter than the normal situation where the principles are followed; hence the unanimity of the council, which is what the Hon. Mr Elliott is suggesting. While this amendment does not encompass all the matters that the Hon. Mr Elliott has mentioned, it is related to all subsequent amendments, and the Government is happy to support it.

Amendment carried.

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

Page 3—Insert subclause as follows:

(2) A plant will be taken to be an isolated plant if—

(a) it is at least one metre in height;

and

(b) there is no other plant comprising native vegetation that is 200 millimetres or more in height within 50 metres of it.

(3) Each plant of a group of two or three plants or of a group of plants that is the subject of a determination by the council under subsection (4) will be taken to be an isolated plant if it would be an isolated plant under subsection (2) except for its proximity to another plant, or the other plants, in the group.

(4) The council may, where in its opinion the circumstances of a particular case justify a determination under this subsection, determine that each plant of a group of four or more plants will be taken to be an isolated plant.

(5) A determination under subsection (4) must be agreed to by all the members of the council present at the meeting at which it is made.

(6) The distance between two plants for the purposes of subclause (2) will be taken to be the distance between those parts of the plants that are above ground level and are closest to each other.

By moving this amendment we are looking for some way of determining what is an isolated plant, and for something that is relatively simple but seems to cover most likely cases. What we have come up with is a suggestion that a plant that is at least one metre in height which has no other native vegetation within 50 metres of it that is over 200 millimetres in height will be deemed to be isolated. I draw members' attention to subclause (3), which recognises that sometimes you might not have a single plant but a very small clump of a couple of plants, and under these circumstances—

The Hon. R.J. Ritson: Is it two or three plants, or would four plants also qualify?

The Hon. M.J. ELLIOTT: It is a question of deciding where you will have a cut-off. It was always difficult—

The Hon. R.J. Ritson interjecting:

The Hon. M.J. ELLIOTT: What we are doing in subclause (2) is defining what makes up an isolated plant.

The Hon. R.J. Ritson interjecting:

The Hon. M.J. ELLIOTT: With respect to subclause (3), we see that each plant of a group of two or three plants or of a group of plants that is subject to determination by the council under subclause (4) will be taken to be an isolated plant. It would be an isolated plant under subclause (2) except for its proximity to another plant or other plants in the group. The legislation will probably need to be read through a couple of times before members digest it, particularly considering the hour, but we are attempting to determine what are isolated plants so that the council is free to make a determination as to whether or not it can vary from the guidelines within the schedule.

The Hon. ANNE LEVY: The Government supports the amendment.

The Hon. PETER DUNN: It is confusing. The honourable member proposing these amendments was right when he said it may need to be read through two or three times. I do not think I can do anything about it, but I just find it highly irregular, very difficult and very confusing. The average layman who wishes to pick up this Act and read it will be splitting his sides with laughter, I would suggest.

The Hon. J.C. BURDETT: I could not support this. It seems to me to be a nonsense. When we find such detail written into an Act—and that is what it will be—that the plant must be at least one metre in height, and no other plant comprising native vegetation that is 200 millimetres or more in height can be within 50 metres of it, along with the other matters set out in subclauses (3) and (4), it seems to me to be quite pathetic in an important piece of legislation such as this to try to bring in detail of this kind. I could not possibly support this amendment.

The Hon. PETER DUNN: I suspect that this will be done through the use of aerial photographs in the first instance. If that is the case, they could not be determined. One could not read this detail from the air. A plant less than 200 millimetres in height might be a single stem, and it would be impossible to photograph. Therefore, someone—either an officer or the committee—would have to go out into the field. If a person is worried about a plant 200 millimetres high, I suspect that it would not be there for very long if he was to make application to clear a rather large tree close to it. It would be impossible to determine the 50 metre distance. I could not support it, but I know the numbers.

The Hon. M.J. ELLIOTT: When the Bill arrived, it entertained the clearance of one plant and one plant only: that was the position we started with. People were making submissions that there are circumstances when greater clearance than one plant is necessary—in fact, not infrequently and possibly not unreasonably. The difficulty we face is how to balance the legitimate desires of people who are trying to improve the efficiency of their farms with the difficulties of particular vegetation against an Act which has very clear principles, almost all of which would be breached to allow the clearance of those trees. That is the precise difficulty that we face.

The Hon. Peter Dunn: It is in the Act: you supported it.

The Hon. M.J. ELLIOTT: The Act is an extremely good one; it works very well where there are extensive amounts of native vegetation. It runs into difficulties when dealing with smaller patches and isolated vegetation. How does one distinguish between an isolated tree or a small patch of scrub and extensive amounts of scrub?

The Hon. R.J. Ritson interjecting:

The Hon. M.J. ELLIOTT: At least none of them is over 200 millimetres in height, so you are pretty safe there. We were faced with a very clear difficulty here, with a native vegetation preservation Act trying to protect native vege-

tation and yet we had to come up with some circumstances whereby it could be cleared. First, we have to distinguish between the isolated plants and others. How does one do that? I am open to persuasion that there are better definitions, but I can assure members that in the odd spare moment available over the past few days we have been looking around trying to find a suitable definition. Perhaps someone can come up with one. I would quite happily support a better definition, now or at another time—but the one put forward is what we have come up with at this time.

What it will allow now is clearance which is at very definite variance to the principles of the Native Vegetation Act. That is something that has been asked for by farming groups—there is no doubt about that. It is something that will be resisted very greatly by conservation groups. There were two groups in very clear conflict, and we have tried to steer our way through. If we get to a position where we can say that the council can make decisions which are at variance with the principles, it is important to realise that then there are no guidelines at all. It was okay where we were talking about one plant, where we could say that, as far as that was concerned we did not need many guidelines. But what about in relation to two, five, 10 or 20 plants? It became increasingly difficult and we had to find ways around that, and that is exactly what the amendments set out to do.

Under proposed subclause (3), if a landowner has two or three plants, he will be able to clear them, and he will be able to make that decision which is at variance with the guidelines. That can be a simple determination of the council. However, if a landowner makes a decision to clear a group of plants which is larger—in other words a group of plants to which subclause (4) relates—that is where the difficulties start to arise. So, we need some mechanism to make sure that the decision is one that is acceptable to the community generally.

In that case, a determination will need to be made and agreed to by all members of council. I do not think that will be as difficult to get as some people might expect, due to requirements that we have set out in a further amendment to be moved later, which provides that, on any occasion when clearance is allowed at variance to the principles, there is a requirement that there be a replanting of native vegetation to take the place of what has been lost. Also, it must provide a very clear environmental benefit. So, I think we will find that where a farmer says, 'I have 10 trees that I would like to clear because I am putting in a particular system,' they will have to look at those plants and be satisfied, for instance, that they are not the only 10 left of a particular species.

They will still have some biological questions to answer. For instance, if there are 10 river red gum trees, they might agree that they are fairly attractive trees but that there are a lot of them around, and they might say, 'Okay, we will agree to remove those trees, but we will require that the farmer plant local trees and shrubs in that corner of the paddock to provide a biological benefit replacing the loss of those 10 trees.' At the end of the day that should be attractive to the conservation members of the council, so it should not be impossible to get unanimity.

In most cases where people are requesting this sort of clearance, they are usually engaged in intensive agricultural or horticultural pursuits. So, I do not think that it will be a great expense for the farmer; he will simply be relieved that he is allowed to put in his system. It should be a situation in which at the end of the day everyone is happy. That is what we are trying to do.

I know that a bit of the wording is hard to understand to begin with, but if we look at the practical effects of how it will work, we will see that we are trying to achieve a situation in which a farmer may make a reasonable request but where there will not be a large biological loss of the trees themselves and where a counter-balance effect will occur by plantings elsewhere. The farmer will be happy and conservation groups will say that, on balance, the environment has gained.

That is the final point that we are trying to reach in these discussions. It is unfortunate that the drafting has been interrupted, but I think we have got it pretty right—I hope we have. If we have not, I make it clear right now that if there is a need for further amendment I will support such amendment if it achieves the same goals that I set out to achieve. I have made it clear that there must always be a biological benefit achieved at the end of the day. If the farmers gain something as well, that is terrific, and that is the sort of situation that we should hope to have.

The Hon. ANNE LEVY: I congratulate the Hon. Mr Elliott on this amendment. I agree with him that one has to read it several times for its import to become clear but, having done so, I understand quite clearly what he has attempted to do. The honourable member's proposed definition will encompass the aims that he has set out to achieve. The legislation provides for the clearance of isolated plants. An isolated plant is defined clearly in subclause (2). We then say that a group of two or three plants can always be treated as an isolated plant.

The Hon. R.J. Ritson: Only two or three, and not four?

The Hon. ANNE LEVY: You have not read it four times yet. I suggest that you do and then you might make sense of it. It says that a group of two or three plants may be treated as an isolated plant by the council when it makes a determination. A group of four or more plants can, but need not, be treated as an isolated plant. For a group of four or more plants to be treated as an isolated plant, the unanimous decision of the council is required. I hope that the Hon. Mr Elliott feels that the hours of consultation that have led to this situation have been worth it. I think his amendment is brilliant.

The Hon. R.J. RITSON: I am concerned at the fine detail that is being inserted into the principal Act. The more detail that is included, the worse it gets and the more potential for future litigation is created, perhaps even for future judicial criticism of the Act. For example, whilst it is defined in this Act how to measure the distance between two plants, there is absolutely no direction or instruction for use of the tape measure and how to measure a plant that is 200 millimetres or more in height, as everyone with common knowledge knows.

Different parts of a plant are different heights and plants vary in their turgidity during the day. Fronds of a small plant will go up or down. The height of the plant has to be 200 millimetres or more but it will vary in height depending on how one measures it. There are no instructions in the Bill to measure the height or to determine the time of day, depending on whether it is wilting or standing after fresh rain. I see that there is some laughter and titilation around the Chamber, but it is no joke when we put more and more detail into a Bill and the more detail we include the worse the Bill becomes because it creates more points for dispute rather than putting in broad principles and, in the case of dispute, allowing judges to apply judicial principles.

I just see the whole process of this Bill where we try to define in smaller and smaller detail circumstances to cover every foreseeable and unforeseeable future event as a terribly poor legislative process. I have just wanted to put that

opinion on the record without arguing about the minutes and I think I will be proved correct.

The Hon. PETER DUNN: If subclause (4) requires the determination by the council, why should it not come under clause 5? As one can clear four or more—that means any number and I believe it should come under subclause (5). It is the word 'more' that is crucial. They can go to 200 hectares of native vegetation and determine it plant by plant and, if all seven members agree, then under this clause they could legitimately approve the clearance of 200 hectares.

The Hon. ANNE LEVY: I can see where the confusion lies. Different matters are being determined by the council. What is being determined is whether native vegetation can or cannot be cleared. This is not referring to a determination as to whether or not it can be cleared—it is deciding whether this group of plants can be treated in the way that an isolated plant is treated. Under subclause (5) there are different methods of treating isolated plants as opposed to lots of scrub, and there are different rules for isolated plants. Subclause (4) is the determination by the council whether the group of plants can be treated in the same way as an isolated plant. If unanimously they decide that that is so, they then apply the rules in respect of an isolated plant, but in that case they will be applying the rules not to an isolated plant but to a group of plants. It is not a decision about clearing; it is a decision about whether a group can be treated in the same way as an isolated plant.

The Hon. PETER DUNN: That is fine, but where do you determine that 'more' is a group where it is broadacres? Where is the cut-off point? Is there one and, if so, who determines that?

The Hon. ANNE LEVY: It is at the unanimous discretion of the council.

The Hon. PETER DUNN: So, the council could determine that a group of plants comprises 200 hectares, and that would be dealt with in isolation?

The Hon. ANNE LEVY: Yes, if that is the unanimous decision. But why would it?

The Hon. M.J. ELLIOTT: This is getting to be a bit of a nonsense. If the council is going to allow the clearing of 200 hectares of scrub, that would require a replanting of much greater benefit, which would mean replanting well over 200 hectares of native plants—

The Hon. Peter Dunn: Where does it say that?

The Hon. M.J. ELLIOTT: If members look at later amendments, they will find that councils cannot grant such a clearance without a requirement for replanting that is of greater environmental benefit than the plants that have been removed.

Members interjecting:

The Hon. M.J. ELLIOTT: It is unfortunate that members have not had these amendments for very long. I am not happy about that and I said that at the beginning of my remarks—it is on the record. The risk of large numbers of plants being cleared is not great, because it requires the unanimous decision of the council, which has representatives from conservation groups. So, that is an unrealistic expectation. In addition, there is the requirement that there be replantings to compensate for what is lost. So, the suggestion that there will be broadacre clearance as a result of this subclause is absolute nonsense.

The Committee divided on the amendment:

Ayes (8)—The Hons T. Crothers, M.J. Elliott (teller), M.S. Feleppa, I. Gilfillan, Anne Levy, Carolyn Pickles, C.J. Sumner and G. Weatherill.

Noes (7)—The Hons J.C. Burdett, L.H. Davis, Peter Dunn (teller), K.T. Griffin, R.I. Lucas, R.J. Ritson and J.F. Stefani.

Pairs—Ayes—The Hons J.C. Irwin, Diana Laidlaw and Bernice Pfitzner. Noes—The Hons R.R. Roberts, T.G. Roberts and Barbara Wiese.

Majority of 1 for the Ayes.

Amendment thus carried; clause as amended passed.

Clause 6—'Objects'—reconsidered.

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

Page 3, line 22—Leave out 'are' and insert 'include'.

This amendment is unrelated to the rest of the amendments which are being moved tonight. All it is attempting to do is make clear that the listed objects 'include' rather than 'are'. Some people feel that, with respect to the interpretation of the legislation, some things do not properly fit within the objects as they are currently spelt out. It was felt that, by replacing the word 'are' with 'include' it might address some of those problems. It is a very minor change.

The Hon. ANNE LEVY: I am happy to accept the amendment.

Amendment carried.

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

Page 3—

Line 23—Leave out 'to provide incentive and assistance' and insert 'the provision of incentives and assistance'.

Line 25—Leave out 'to conserve' and insert 'the conservation of'.

Line 27—Leave out 'to limit' and insert 'the limitation of'.

Line 31—Leave out 'to encourage' and insert 'encouragement of'.

Line 34—Leave out 'to encourage' and insert 'encouragement of'.

These grammatical changes are all consequential on the amendment that has just been accepted.

The Hon. PETER DUNN: The honourable member used the word 'include'. What else does it include? By its very definition, something must be outside it. What else would be included in this provision? I thought it was well worded before.

The Hon. M.J. ELLIOTT: As I said at the outset, concern was raised with me by a number of people who were happier with the word 'include' than 'are'. That amendment has been accepted by the Committee. Their concern was that the use of the word 'are' might make things narrower than they should be in relation to the interpretation of some of the clauses. I was persuaded by that and that is why I moved the amendment.

Amendments carried; clause as amended passed.

Clause 26—'Provisions relating to consent'—reconsidered.

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

Page 11, lines 38 and 39—Leave out 'seriously at variance with the principle' and insert 'contrary to subsection (1) *(b)*'.

This is a relatively minor amendment and its effect will not be all that great. There was concern that the council could grant consent that is seriously at variance with the principles. Initially I wanted to remove the word 'seriously' but that created difficulties in relation to clause 26 (1) *(b)*. The amendment links subclause (4) back to subclause (1) *(b)*, which does not allow clearance which is seriously at variance. Clause 26 (4) then provides that clearance may be allowed that is at variance to clause 26 (1) *(b)*.

Amendment carried.

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

Page 11, line 40—Leave out 'only one plant' and insert 'one or more isolated plants'.

As the Bill stood, a person could clear only one plant. As I have said, the intention of the amendments that I have been moving tonight is to allow the clearance of more than one plant. We are now also talking about isolated plants, which was necessary to make this whole thing work. It is a

change to open up and make the clearance of plants a little easier, but under some fairly constrained circumstances.

Amendment carried.

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

Page 12, line 2—After 'that plant' insert ', or those plants,'.

This amendment is consequential.

Amendment carried.

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

Page 12, line 24—Leave out 'and any' and insert ', all subsequent owners of the land and any other'.

This amendment further clarifies the obligations on persons who own property and the subsequent owners of that property in relation to what they must do when consent has been granted. If conditions are applied, this amendment makes quite clear that those conditions are binding and enforceable. I want to make quite clear that that enforcement applies not only to the present owner but to all subsequent owners. It is a minor point of clarification.

Amendment carried.

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

Page 12, after line 25—Insert new subclause as follows:

(9a) The council may, pursuant to subsection (4), give its consent to clearance of native vegetation if, and only if—

(a) it attaches to the consent a condition requiring the applicant to establish native vegetation on land specified by the council;

and

(b) the council is satisfied that the environmental benefits that will be provided by that vegetation significantly outweigh the environmental benefits provided by the vegetation to be cleared.

This new subclause makes clear that if consent that is contrary to the clearance principles is granted for the clearance of native vegetation—in other words it has been done under the definition of 'isolated plants'—when the council makes such a decision it ensures that there will still be an environmental benefit from that decision by the requirement for the establishment of native vegetation on land specified by the council.

The Hon. PETER DUNN: What is the definition of 'environmental benefit'? It seems to be fairly open-ended; it could be anybody's interpretation, I suggest. What happens when the council specifies a species and it turns out to be a pest plant?

The Hon. M.J. ELLIOTT: If the Native Vegetation Authority requires the planting of prickly pear, I will be very disappointed. As to what is an environmental benefit, it requires a unanimous decision for clearance where more than three plants are involved. In any event, I think the council will be made up of fair-minded people. I would have thought that the farmers and the conservationists between them would work out what plants were appropriate for the area and whether or not there was environmental benefit. I do not think that there is too much of a problem; they can determine that. I am certainly not nervous about it.

The Hon. PETER DUNN: What happens if they do not survive? Is there a time limit? Do they have to be replanted?

The Hon. M.J. ELLIOTT: The previous amendment on which we just voted should cover that. Certainly, that was my expectation. Subclause (9) provides:

A consent under this division is subject to such conditions (if any) as the council thinks fit to impose, and any such conditions are binding on, and enforceable . . .

That would mean that not only would the council require the planting of native vegetation but, if necessary, it would say that the area needs to be fenced and that those plants must be cared for in the appropriate fashion. I really do not think that the conditions would be terribly onerous, but the council does have a responsibility to make sure that those plants are up and running. If, as I would expect, local native plants are planted people would not have to be out watering them all the time. Once they are established, they would be capable of looking after themselves. I do not see a great difficulty, although the council has a responsibility to make sure that those plants remain. They cannot be cleared at some later time. There would be an absolute requirement as part of the conditions that that vegetation be protected.

The Hon. PETER DUNN: That is obviously not clear in this amendment. I can anticipate someone planting a golden wattle which, in my area, has a life expectancy of seven or eight years, and then they would be told by the council to do it again. It is fairly dangerous, but never mind.

The Hon. M.J. ELLIOTT: If a person was instructed to plant a golden wattle, and if people had an idea that that was the life expectancy, it would depend on the extent of the planting. If one was doing small plantings, it would probably be a relatively useless exercise to plant golden wattles. On the other hand, it depends how many trees are cleared and what is required to replace them. If it were a slightly larger plant such as a golden wattle, they might live for seven years and then die. The seeds would remain and, as nature does, in time a fire might go through and there would be a bit of regeneration. A little patch of scrub would then look after itself. There is no expectation that, when a tree dies of old age, it has to be replaced. I would not expect that, but I would expect that due care be taken of that planting.

The Hon. ANNE LEVY: The Government certainly supports this amendment. It has been discussed in relation to earlier amendments that relate to the same question.

Amendment carried; clause as amended passed.

New clause 26a—reconsidered.

The Hon. PETER DUNN: On behalf of the Hon. Diana Laidlaw, I move:

Leave out subclauses (4) and (5) and insert new subclauses as follows:

(4) After making the assessment the conciliator must submit a written report to the council that either confirms the council's determination or recommends that the council vary or revoke the determination and make a determination recommended by the conciliator.

(5) The report must include the conciliator's reasons for his or her recommendation.

(6) Upon receiving the conciliator's report the council must, if the report recommends that the determination be varied or revoked, reconsider the application and in doing so the council must have regard to the conciliator's recommendation.

The Hon. ANNE LEVY: I am happy to accept it.

New clause inserted.

Clause 27—'Jurisdiction of the court'—reconsidered.

The Hon. ANNE LEVY: I move:

New subclause (4a)—Leave out 'establish' in the second line and insert 'make good the contravention or default by establishing'.

This is a minor technical amendment which I understand clarifies the intention of the clause from the legal point of view.

Amendment carried; clause as amended passed.

Clause 31—'Personal interest of member'—reconsidered.

The Hon. ANNE LEVY: This matter arose last night. In relation to subclause (2), when an amendment to remove all the words after 'offence' was defeated, the Hon. Ms Laidlaw said that, if the last part was not removed, she wanted to add the words 'in exceptional circumstances' between the words 'or' and 'with'. I agreed that I would accept the amendment if the Hon. Ms Laidlaw wished to move it, but the procedures of this Committee did not allow us to do it at that time without recommitting. Perhaps the Hon. Mr Dunn would like to formally move the amendment on behalf of Ms Laidlaw, and I would happily accept it.

[*Midnight*]

The Hon. PETER DUNN: I move:

Page 14, line 35—After 'or' insert 'in exceptional circumstances'.

The Hon. ANNE LEVY: I am happy to accept that amendment.

Amendment carried; clause as amended passed.

Bill reported with further amendments; Committee's report adopted.

The Hon. ANNE LEVY (Minister for the Arts and Cultural Heritage): I move:

That this Bill be now read a third time.

The Hon. PETER DUNN: This was not a very large Bill. It reflected the previous Act that had worked quite well in this State, and I was under the impression that it did not require major changes, and that it could have been amended mildly but that was not to be. This Bill is now very complex. It will require an enormous amount of interpretation by the courts, particularly if it is challenged, and it demonstrates what can happen when we do things on the run.

I do not think that the Minister thought this Bill through very well. The Government had an agenda before it started, but I do not know whether that agenda has been achieved: that is, the protection, better management and, perhaps, the regeneration of native vegetation. I refer to the early days of 1983 and the animosity that developed in relation to the original Bill. I think that some of that animosity will develop in relation to this Bill. I am a little disappointed that there was not more cooperation from some members opposite and the Democrats. This Bill is very pedantic, and I am not sure that it will achieve what the Government has set out to achieve. I may be proven wrong, but I will be surprised if I am.

Obviously, this Bill will be passed and enacted, and it will put a number of people offside. I refer, in particular to the provision dealing with single plants and groups of plants. I suspect that those plants might not see the light of day and that, if they do, they are likely to be destroyed, which is a very sad thing. I do not believe that the Bill makes much progress; it just complicates an issue that could have been dealt with in the earlier Bill. However, I support the Bill in its present form because it is an Act that has been accepted relatively well by the rural community, which will have to bear all the costs of this Bill from now on.

Bill read a third time and passed.

NATIONAL PARKS

The Hon. ANNE LEVY (Minister for the Arts and Cultural Heritage): I move:

That the resolution contained in message 110 from the House of Assembly be agreed to.

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

Leave granted.

Explanation of Motion

Since successive Bannon Governments have been in office, policies associated with the conservation and management of natural resources have been given considerable priority. Such policies have included the management of our natural heritage comprised within the park system operation under the National Parks and Wildlife Act. As members will know, the National Parks and Wildlife Act provides for five categories of park, namely; national parks—areas nationally significant by virtue of their wildlife and scenery; conservation parks—areas of major biological significance by virtue of the plants and animals they contain; recreation parks—areas where people may undertake recreational activities in a natural setting; game reserves—areas managed for conservation and, at certain times of the year, where species of game can be taken under certain conditions; and regional reserves—areas of conservation significance where utilisation of natural resources can take place under agreed conditions.

As time passes and the views of the community change towards the park system, it is important that we, on occasions, review the classifications of parks and, if necessary, make decisions to change their classifications according to need. The Act is constructed in such a way as to protect strongly the tenure and basis of the park system. To undertake any alteration of name, or to abolish any park, requires a resolution of both Houses of Parliament. I believe that this requirement is at this point appropriate; it provides an excellent way to ensure that these areas, which were established for public benefit, are not tampered with without considerable thought as to the consequences of any change.

The motion before the House is divided into three subsections. The first is related to our oldest park. With the passage of the National Parks and Wildlife Act in 1972, the National Park, Belair as it was known for many years, was changed to the Belair Recreation Park. This change was made reflecting the type of use to which the park had been put in the past and which was envisaged for the future.

As members will know, the State is celebrating the centenary of parks during this year and the Minister has announced the Government's desire to change the classification of the Belair Recreation Park to the Belair National Park. This suggested change reflects very much the views of the majority of the South Australian Community. The Belair Park has been used by many people in this State, both as children and later as adults. Given the fact that it is the centre of the park system in this State and one of the oldest parks of its type in the world, the Government believes that this distinguished history should be recognised by reconstituting the Belair Recreation Park as the Belair National Park.

The second and third parts of this motion refer to the change of status of two games reserves in the State. The Coorong Game Reserve was established over 20 years ago under the provisions of the Fisheries and Fauna Conservation Act. At that time the Coorong, as we now know it, was largely Crown land. Portion of that Crown land was identified by Government for constitution as a game reserve. Such a decision was appropriate at the time, given the use of the area and the amount of interest shown by the community at large in relation to the Coorong as a whole. Since that time, the Crown lands on either side of the original game reserve have been constituted as the Coorong National Park. This decision recognised the major importance of the Coorong, not only because of its outstanding landscape but

also from its substantial biological attributes. The Coorong is now listed as a wetland of international significance under the Ramsar Convention. This park has been the subject of considerable discussion and public interest over the past decade.

As with many of the popular parks, there are conflicting demands on access to the park's resources and the ever difficult problem of balancing preservation of the park's features against the impact of increasing numbers of visitors. It is inevitable that a compromise has to be struck between the desire of people for unfettered use of a national park and the necessary protection measures that will ensure the park is safely handed on to future generations. Striking the balance can create widespread discussion and debate and, at times, considerable passion. The most suitable way of reaching the necessary compromises is through a park management planning process that provides wide opportunity for public input and public evaluation of comments.

The Coorong has gone through various public management debates since 1984. The strength of debate was so vigorous in 1985 that the previous Minister for Environment and Planning (Dr Hopgood) gave an undertaking to widen the public consultation framework and agree on a seven-year moratorium on any alteration to the contentious issues of the boundaries of the Coorong Game Reserve or beach access. Dr Hopgood established a consultative committee for the Coorong and over the past three years that committee of citizens has worked hard at the continuing process of developing management approaches for the Coorong. A public consultation process was continued that resulted in the exhibition of a draft plan of management for the Coorong in 1988.

After receiving the public comments on the draft plan the Minister went to the Coorong to look into the many problem management issues. In conjunction with the chairperson of the consultative committee the key issues were discussed and studied in the park. This led to the formal adoption of the plan of management in December 1990. One of the issues raised in the planning process was the classification of the Coorong Game Reserve. Submissions questioned the presence of a game reserve, with associated hunting, within the external boundaries of the national park. Particular concern was expressed about hunting in an area that was internationally recognised as vital habitat for bird life. It should be mentioned that, in fact, only between 1 per cent and 3 per cent of licensed hunters actually use the Coorong, so its importance for hunting is now not significant.

The Government was separately considering the wider issue of the future of duck hunting. Western Australia has banned the sport. In South Australia it was decided by this Government to adopt a policy that sought to minimise the environmental and animal welfare impacts of duck hunting and to maximise the contribution that waterfowl management makes to wetland conservation and rehabilitation. A task force was established to advise the Government on duck hunting policy options and, after considering the task force findings, a duck hunting policy was adopted by the Government late last year. The policy posed a number of measures relating to hunter education, phasing out of lead shot and investigation of further wetlands for hunting purposes. It also proposed measures to encourage wetland rehabilitation.

The policy considerations dovetailed with the Coorong planning process and it was decided to seek the incorporation of the Coorong Game Reserve into the Coorong National Park. In arriving at this policy it is intended to honour Dr Hopgood's earlier undertaking. Whilst the resolution before the House is a result of detailed public discussion and debate and policy decisions taken by this Government, actual gazettal of the Coorong Game Reserve revocation will not be made until January 1993.

The Katarapko Game Reserve is also one of the State's older game reserves, located on the Murray River north of Loxton. Over the past 10 years, the National Parks and Wildlife Service has spent a considerable amount of capital funds developing camping and recreation facilities in the Katarapko Game Reserve and undertaking a major rabbit control program. The Katarapko Game Reserve is arguably one of the most attractive public recreation areas in the Riverland part of the State and, given the existence of the Moorook and Loch Luna Game Reserves in the near vicinity, it appears that the Government should recognise the increasing recreational use of Katarapko as distinct from its decreasing use for game hunting.

Also, the Government recognises that along the Murray River system in Australia as a whole no national park has been declared in any State recognising riverine habitats. This Government, in conjunction with Robertson Chowilla Pty Ltd, has begun an investigation to establish a Murray River National Park in the Murray River border area. Such a national park would involve part of the flood plain of Chowilla Station currently leased by Robertson Chowilla Pty Ltd. This flood plain area was acquired by the Government in 1965 for provision of the now no longer required Chowilla Dam.

While the majority of this flood plain area will continue to be available to Robertson Chowilla for pastoral purposes under a proposed regional reserve category, the south-east corner of this important riverine habitat is planned to be retained for national park purposes. Other parcels of unallocated Crown land downstream from Chowilla have been identified for possible inclusion in the Murray River National Park. It is envisaged that the Katarapko Game Reserve would form an important portion of such a national park.

The Government is using this initiative to promote an innovative step with the New South Wales and Victorian Governments in relation to conservation management of Australia's vital Murray River. Discussions have been taking place with those two Governments with the concept of establishing a tri-State national park. Both Victoria and New South Wales have important areas of riverine habitat within their boundaries and, given the fact that land was acquired in those two States as well as South Australia in 1965 for the Chowilla Dam, a major opportunity presents itself for an internationally significant national park involving the three States.

While those discussions are still at an early stage, South Australia, as has often been done before, is taking the initiative in suggesting such a land management framework. This framework also has relevance to the work being done by the three States and the Commonwealth through the Murray-Darling Basin Commission and the ministerial council. In summary, I believe that responsible members of this House and the upper House will see the virtue of the changes being suggested in relation to these three parks. I commend the motion to the House.

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

The PRESIDENT: Because of the requirements of Part 3 of the National Parks and Wildlife Act 1972, this motion cannot be agreed to until 14 sitting days have passed since the notice of motion was first given in the Parliament. The 14 sitting days will expire on 10 April, and it would be

advisable for the adjourned debate on this motion to be made an Order of the Day for Wednesday 10 April 1991.

ROAD TRAFFIC ACT AMENDMENT BILL (No. 3)

Returned from the House of Assembly without amendment.

[*Sitting suspended from 12.15 to 1.25 a.m.*]

FREEDOM OF INFORMATION BILL (No. 2)

At 1.25 a.m. the following recommendations of the conference were reported to the Council:

As to Amendment No. 1

That the Legislative Council no longer insist on this amendment but makes the following amendment in lieu thereof:

Clause 2, page 1, line 15—Leave out 'on a day to be fixed by proclamation' and substitute 'on 1 January 1992'.

And that the House of Assembly agree thereto.

As to Amendment No. 2

That the House of Assembly do not further insist on its disagreement to this amendment.

As to Amendment No. 3

That the Legislative Council amend its amendment by leaving out 'inexpensively' and substituting 'efficiently'.

And that the House of Assembly agree thereto.

As to Amendments Nos 4 to 9

That the House of Assembly do not further insist on its disagreement to these amendments.

As to Amendment No. 10

That the Legislative Council do not further insist on its amendment but makes the following consequential amendment in lieu thereof:

Clause 20, page 10, lines 1 and 2—Leave out 'before the commencement of this section' and substitute 'before 1 January 1987'.

And that the House of Assembly agree thereto.

As to Amendment No. 11

That the Legislative Council amend its amendment by leaving out 'council,'.

And that the House of Assembly agree thereto.

As to Amendment No. 12

That the Legislative Council do not further insist on its amendment.

As to Amendment No. 13

That the House of Assembly do not further insist on its disagreement to this amendment.

As to Amendment No. 14

That the Legislative Council do not further insist on its amendment.

As to Amendment No. 15

That the House of Assembly do not further insist on its disagreement to this amendment.

As to Amendments Nos 16 and 17

That the Legislative Council do not further insist on its amendments.

As to Amendment No. 18

That the Legislative Council do not further insist on its amendment but make the following amendments in lieu thereof:

Clause 17, page 8, line 16—Leave out 'such amount' and substitute 'such reasonable amount'.

Line 20—Leave out 'such amount' and substitute 'such reasonable amount'.

As to Amendment No. 19

That the Legislative Council do not further insist on its amendment.

As to Amendments Nos 20 to 22

That the House of Assembly do not further insist on its disagreement to these amendments.

As to Amendments Nos 23 to 27

That the Legislative Council do not further insist on its amendments.

As to Amendment No. 28

That the Legislative Council do not further insist on its amendment but makes the following amendment in lieu thereof:

Clause 21, page 10, after line 30—Insert subclauses as follows:

(2) Access to a document to which subsection (1) *(a)* applies may not be deferred beyond the time the document is required by law to be published.

(3) Access to a document to which subsection (1) *(b)* or *(c)* applies may not be deferred for more than a reasonable time after the date of its preparation.

And that the House of Assembly agree thereto.

As to Amendment No. 29

That the Legislative Council do not further insist on its amendment.

As to Amendments Nos 30 to 32

That the House of Assembly do not further insist on its disagreement to these amendments.

As to Amendment No. 33

That the Legislative Council amend its amendment by leaving out from proposed new subclause (5) 'or any of that person's close relatives' and substituting 'or, if there is no personal representative, the closest relative of that person'.

And that the House of Assembly agree thereto.

As to Amendments Nos 34 and 35

That the House of Assembly do not further insist on its disagreement to these amendments.

As to Amendment No. 36

That the Legislative Council do not further insist on its amendment.

As to Amendment No. 37

That the House of Assembly do not further insist on its disagreement to this amendment.

As to Amendment No. 38

That the House of Assembly do not further insist on its disagreement to this amendment.

As to Amendments Nos 39 to 42

That the Legislative Council do not further insist on its amendments.

As to Amendment No. 43

That the House of Assembly do not further insist on its disagreement to this amendment.

As to Amendment No. 44

That the Legislative Council do not further insist on its amendment but makes the following amendment in lieu thereof:

Clause 43, page 21, lines 5 to 25—Leave out subclauses (7) to (12) and substitute the following:

(7) A Ministerial certificate the subject of a declaration under this section ceases to have effect at the end of 28 days after the declaration is made under subsection (4) *(b)* unless, before the end of that period, the Premier gives notice to the agency concerned that the certificate is confirmed.

(8) If the Premier gives such a notice, the Premier must also give a copy of the notice to the appellant and table a further copy in Parliament on the first sitting day after the giving of the notice.

(9) Such a notice must specify the reasons for the Premier's decision to confirm the certificate.

(10) Nothing in this section requires any matter to be included in a notice if its inclusion in the notice would result in the notice being an exempt document.

(11) If a Ministerial certificate ceases to have effect by virtue of this section, the document to which it relates is not to be regarded as a restricted document by virtue of the provision of part I of schedule 1 specified in the certificate.

(12) If a Ministerial certificate is withdrawn before the end of the period of 28 days referred to in subsection (7), the Minister must, as soon as practicable, serve notice on the appellant, and on the agency concerned, that the certificate is no longer in force.

And that the House of Assembly agree thereto.

As to Amendments Nos 45 and 46

That the House of Assembly do not further insist on its disagreement thereto.

As to Amendment No. 47

That the Legislative Council do not further insist on its amendment but makes the following amendment in lieu thereof:

Clause 53, page 22—Leave out the clause and substitute the following new clause:

Fees and Charges

53. (1) The fees and charges payable under this Act must be fixed by the regulations or in accordance with a scale fixed in the regulations.

(2) The regulations—

(a) must provide for such waiver or remission of fees as may be necessary to ensure that disadvantaged persons are not prevented from exercising rights under this Act by reason of financial hardship;

(b) must provide for access to documents by members of Parliament without charge unless the work generated by the application exceeds a threshold stated in the regulations,

and (except as provided above) the fees or charges must reflect the costs incurred by agencies in exercising their functions under this Act.

(3) Where an agency determines a fee or charge it must, at the request of the person required to pay, review the fee or charge and, if it thinks fit, reduce it.

(4) A person dissatisfied with the decision of an agency on an application for review of a fee or charge may apply to the Ombudsman for a further review, and the Ombudsman may, according to his or her determination of what is fair and reasonable in the circumstances of the particular case—

(a) waive, confirm or vary the fee or charge;

(b) give directions as to the time for payment of the fee or charge.

(5) A fee or charge may be recovered by an agency as a debt.

And that the House of Assembly agree thereto.

As to Amendment No. 48

That the Legislative Council do not further insist on its amendment but makes the following amendment in lieu thereof:

Clause 54, page 23, lines 13 to 18—Leave out subclause (1) and substitute the following subclause:

(1) The Minister must—

(a) as soon as practicable after 30 June and in any case before 31 October in each year prepare a report on the administration of this Act for the 12 months ending on 30 June;

and

(b) cause a copy of the report to be laid before both Houses of Parliament within six sitting days after preparation of the report is completed.

And that the House of Assembly agree thereto.

As to Amendment No. 49

That the Legislative Council do not further insist on its amendment but makes the following amendment in lieu thereof:

Clause 54, page 23, lines 19 and 20—Leave out subclause (2) and insert subclause as follows:

(2) The report must—

(a) state the number of Ministerial certificates issued under this Act in respect of restricted documents, the nature of the documents to which the certificates related, and the provisions of Schedule 1 by virtue of which the documents were restricted;

and

(b) contain such other information as the Minister considers appropriate to include in the report.

And that the House of Assembly agree thereto.

As to Amendment No. 50

That the Legislative Council do not further insist on its amendment.

As to Amendment No. 51

That the House of Assembly do not further insist on its disagreement to this amendment.

As to Amendment No. 52

That the Legislative Council do not further insist on its amendment.

As to Amendment No. 53

That the Legislative Council do not further insist on its amendment but makes the following amendment in lieu thereof:

Page 24, Schedule 1 (clause 1)—In paragraph *(f)* of subclause (1) insert 'specifically' before 'prepared'.

And that the House of Assembly agree thereto.

As to Amendment No. 54

That the Legislative Council do not further insist on its amendment.

As to Amendments Nos 55 to 57

That the House of Assembly do not further insist on its disagreement to these amendments.

As to Amendment No. 58

That the Legislative Council do not further insist on its amendment.

As to Amendment No. 59

That the Legislative Council do not further insist on its amendment but make the following amendment in lieu thereof:

Page 25, Schedule 1 (clause 5)—Leave out subparagraph (i) of paragraph *(a)* of subclause (2) and the word 'or' immediately following that subparagraph.

And that the House of Assembly agree thereto.

As to Amendments Nos 60 to 62

That the Legislative Council do not further insist on its amendments.

As to Amendments Nos 63 to 55

That the House of Assembly do not further insist on its disagreement to these amendments.

Consideration in Committee of the recommendations of the conference.

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

That the recommendations of the conference be agreed to.

I report to the Council that the managers from both Houses have been meeting on and off during most of the day, commencing at 11 a.m. However, the end result has been very productive. The conference was conducted in a cooperative and quite expeditious manner, given the very many amendments that had to be considered. So, although it is 1.30 in the morning and we are not really in the habit of sitting this late in recent times, it has been worth it. We have seen the conference out and finally consummated agreement on what is an important piece of legislation for South Australia.

Personally, I am delighted as the agreement and the imminent passage of the Freedom of Information Bill represents the culmination of a number of years of work to achieve this aim, including, as members know, the administrative guidelines on privacy which have been in place now for three years and which are now picked up as part of the freedom of information legislation, that is, access to personal records.

It is probably fair to say that this process has taken a little longer than it should have done, but in the final analysis we have achieved a Bill which, obviously with some points of disagreement that will exist among members, is as good as any of the freedom of information Bills that have been passed in Australia. The Bill is generally consistent with the legislation passed in New South Wales and the Commonwealth, and in particular it seems to accord with what was recommended by the Queensland commission on these matters which was set up after the Fitzgerald report. The Bill picks up provisions from most of the legislation around Australia. It is fair to say that it is more in accordance with the provisions in those States than perhaps Victoria, although it also draws on experience from that State.

I think that we have produced a good Bill to the benefit of South Australia. However, it is important that Parliament should keep the legislation under review. This sort of legislation needs constant examination. The FOI legislation in the Commonwealth and in Victoria has been subject to such review over time.

I will not reiterate in full the agreements which have been reached, because they are extensively set out in the schedule. There were 65 points of disagreement between the Houses and they have now been resolved. On the principal points, we have agreed to a proclamation date for the Bill of 1 January 1992; we have agreed that if the Government wishes to exempt an agency it has to do it by regulation, not by proclamation; we have agreed to its retrospective application to 1 January 1987, which is effectively five years prior to its proclamation; and we have agreed that the fees will not be the subject of guidelines prepared by the Minister and published in the *Gazette*, but will be in regulations. The regulations will still basically reflect a user pays principle with exceptions for disadvantaged persons and a special provision for members of Parliament. Relatively simple applications by members of Parliament will be free of charge, but if they are complex and over a certain threshold of time that would be required for the work, members of Parliament will also be charged an appropriate fee. That, I think, is a compromise. My view was that members of Parliament should not get free access to documents.

An honourable member interjecting:

The Hon. C.J. SUMNER: Because it is open to abuse. Where members of Parliament did have access in the Commonwealth and Victoria, they abused it, unfortunately, and the Commonwealth restricted their access because of those abuses. In the end, a compromise was arrived at, which means that MPs do not have free access except for categories below a certain threshold of work, and the threshold of work is still to be determined in the regulations.

The provisions relating to conclusive certificates for exempt documents were largely kept intact, although the final conclusive certificate now has to be given by the Premier, which was also recommended by the Queensland commission. That focuses all the conclusive certificates in the Premier's hands and ensures that the certificate is given by the highest elected official in the State, and, obviously, one which he would have to consider carefully if he was going to issue a conclusive certificate to override the court's decision.

That covers the major issues on which we were able to reach agreement. The question of exempt documents and which Cabinet documents were to be exempt has been dealt with by agreement by inserting the word 'specifically' in the schedule where it refers to Cabinet documents. In other words, if they are to be exempt, they have to be documents that were prepared specifically for Cabinet, and that was the position that most members of the conference felt would be adequate to cover the situation.

The only other matter I wish to refer to relates to clause 11, which is contained in Part II, which deals with publication of certain information. Clause 11 provides that this Part does not apply to an agency that is a Minister. The reason for that is, I think, simply to avoid duplication, because in most cases a Minister who is an agency under the Act would also be responsible for a department or a commission that was also an agency under the Act. Clause 11 is there to overcome the situation of the Minister's being required to put out an information sheet as well as the agency putting out the same information sheet, the agency being that for which the Minister is responsible.

The only potential hiatus in that is if there is a Minister who is a corporation constituted under specific legislation, which has occurred on some occasions, and where there may be certain functions for which the Minister is responsible where there is no agency. As provided for in clause 11, the Government will declare that that agency that is a Minister is one to which Part II dealing with the publication of certain information applies. That was the only specific matter which I had to put on the record and which was the subject of agreement between the managers and not contained specifically in the legislation.

Unless there are any other matters that members feel I need to address or issues or questions that need to be answered, I commend the results of the conference to the Committee. As I said, I think it was a very constructive conference. Despite the fact it has taken this long, it was dealt with quite expeditiously and has produced a reasonable result. So that there is no misunderstanding about it, I should perhaps say, on the question of fees, that the Government would envisage in its regulations prescribing fees for application to be made for a certain amount per hour for searching, a certain time for perusals and a certain amount per hour for decision making.

By way of example (and this will not necessarily be exactly what it is), in New South Wales it is $20 to $30 for an application, $30 per hour for a search, 20 hours is provided free for the obtaining of personal records and it is $30 per hour for decision making. In the Commonwealth it is $30 for an application, $15 per hour for searching and $20 per hour other time. In Victoria there is actually a limit on the amount that can be charged—

The Hon. R.I. Lucas: It is $100.

The Hon. C.J. SUMNER: Yes, a $100 limit. But, in the legislation we have agreed on there is no limit to the amount that can be charged. It is not envisaged that there be a limit in the regulations, but the charges will be in the nature of those that I have outlined for New South Wales and the Commonwealth. They may be different to some extent or there may be different categories, but we envisage setting down fees that cover those particular matters. I think it is important to put that on the record so that when the regulations do come forward for consideration by Parliament there is no misunderstanding about what was intended, and of course the user pays principle is enshrined in the guidelines which were agreed to to cover the regulations.

I will not recap the reasons for the fees being imposed; that was done in principle during the debate. I think the criticial question that we were able to agree on is that the fees will be set down in regulations and not just ministerial guidelines. I commend the recommendations to the Committee.

The Hon. K.T. GRIFFIN: If anybody has any doubts about whether members of Parliament or staff earn their money, they should sit in on a conference on freedom of information legislation. The conference applied a substantial level of diligence to try to get some resolution of some 65 amendments that were proposed to the Bill by the Legislative Council. As the Attorney-General has indicated, we have been meeting since 11 a.m. on Thursday morning, and it is now 1.45 a.m. on Friday. Most of that time has been spent either in formal conference or in formal discussion, endeavouring to reach some agreement on the issues raised by the Legislative Council amendments. Before making any observation about the amendments, I want to say that the contribution of the staff, the Clerks, Parliamentary Counsel, the waiting by *Hansard* and other contributions have been appreciated.

The Hon. T.G. Roberts: The patience of colleagues.

The Hon. K.T. GRIFFIN: And the patience of colleagues, too, but I think their time has been spent in other pursuits. I do want to place on record our appreciation to those who have serviced the conference. As the Attorney-General indicated, there were a substantial number of amendments which required close examination and discussion. Whilst the Liberal Opposition and the Australian Democrats were not able to get all that they wanted, particularly on several matters of importance, nevertheless what comes out of the conference is a substantial improvement of this Bill and will enhance the capacity of citizens to obtain access to information held by Governments. It will also enable members of Parliament to gain access to Government documentation initially for no fee but, if the work exceeds a threshold fixed by regulation, members of Parliament will be required to pay those fees. The fees generally will be fixed by regulation and there is a review mechanism by the Ombudsman who may look at the reasonableness of the fee and confirm it, reduce it or waive it.

Some concern was expressed that perhaps the freedom of information legislation would replace the mechanism by which members of Parliament gain information, but an assurance was given by the Government that there was certainly no intention to detract from the current means by which members of Parliament obtain information, either by questioning in the Parliament or by requests to Ministers and access to public servants. That is an important matter to be put on the record, because one could see that any Government which wanted to thwart the efforts of members to obtain information by what have been traditional means could be referred to the freedom of information process, for which ultimately fees may be charged. The freedom of information legislation is an additional means by which both members of Parliament and citizens can obtain information about Government activity.

The areas where there have been achievements are, as I have indicated, the fixing of fees by regulation with a review by the Ombudsman of the reasonableness of the fees which might be charged; the entitlement of members of Parliament; the preservation of unlimited access regardless of when the documentation came into effect in respect of personal affairs, as has always been in the Bill; and access to other documents, rather than being related to the date of commencement of this legislation, will now go back to documents created on or after 1 January 1987, a period of five years from the date of commencement of this Bill. If within that period any documents depend upon documents that came into existence prior to 1 January 1987, access to those earlier documents may not be refused. The legislation will come into operation on 1 January 1992, something that the Liberal Party was keen to ensure—either that date or some fixed date which could not be deferred.

With respect to advance deposits, an amendment was made that ensures that advance deposits are of reasonable amounts, remembering that they are subject to internal or external review. An amendment that originated with the Australian Democrats ensures that accessibility to documents cannot be refused on the basis that a document was being prepared, for example, for presentation to the Parliament, but the document had not yet been presented. Amendments now impose a time limit fixed by law after which, if a document has not been presented to the Parliament, it must be made available to the applicant for access and, in respect of other documentation set out in clause 21, within a reasonable time after the date of its preparation.

The appeal from a decision of the District Court was limited by the Bill to matters of law, but now relates to matters of fact and law. The two areas where the Liberal Party was not as successful as it would have liked related to the issue and review of a ministerial certificate. In relation to restricted documents, that is still largely reviewable by the court, but only to the extent that the court can make a declaration that it is not reasonable. Notice of that is tabled in the Parliament and it is the Premier who must confirm that ministerial certificate if accessibility is to be continued to be denied as a result of the District Court decision.

The other area where the Liberal Party was not successful relates to clause 42, which deals with appeals by way of rehearing. If the Minister makes known to the court his or her assessment that the determination subject to the appeal has been made on the grounds of public interest, a court must uphold that assessment unless satisfied that there are cogent reasons for not doing so. So, in a sense, there is a reverse onus, but I suppose it could probably be more fairly described as significant weight being given to the decision of the Minister.

A number of other matters can be determined from a perusal of the amendments which have been agreed to by the House of Assembly and which substantially improve the operation of this Bill. We have been waiting a number of years for freedom of information legislation. The Hon.

Martin Cameron started introducing his Bills about five years ago and on at least two occasions they were passed by the Legislative Council but not proceeded with by the House of Assembly. I am pleased to see that a substantial number of the principles included in that legislation has been adopted by this Bill as amended by agreement of the conference. I support the motion.

The Hon. R.I. LUCAS: I support the motion and join with my colleague the Hon. Mr Griffin in thanking the staff, both Parliamentary Counsel and others, who have serviced the conference over the last how many hours it has been. As with most conferences, not everyone is happy with all aspects and, as the Hon. Mr Griffin has indicated, a number of amendments have improved the potential operation of the legislation. In particular, I refer to retrospectivity and the provisions on deferral of access and in relation to regulations rather than proclamation. I do not intend to go over the detail of those and the other amendments to which my colleague has already referred.

However, I must say that, whilst the Liberal Party and the Democrats in this Chamber sought in the conference to toughen the legislation, I believe it remains the worst of its type in Australia and certainly the most restrictive in the Commonwealth. Certainly, the passage of time will indicate the accuracy of my comments when people who seek to use the freedom of information laws here, and compare them with the laws in the other States in the Commonwealth, especially Victoria, where people will see the accuracy of the statement that the legislation is the worst and the most restrictive of its type in Australia.

The Government has successfully retained the position where virtually any potentially embarrassing document can be concealed by the Government through the use of a series of devices that I and other members outlined in the second reading debate. In particular, the Government has successfully retained the position whereby it can prevent the release of $1 million worth of market research and opinion polling by Australian National Opinion Polls (Mr Rod Cameron) for the Bannon Government.

It has been a feature of the Bannon Government's defence of its restrictive FOI legislation to ensure that this information will not be released and, as I indicated in the second reading debate on day one, I will be making an application for it, and I guarantee that the Bannon Government, represented by the Premier and the Attorney-General, will fight all the way to ensure that that information will not be released. As I said, they have successfully defended the opportunity to ensure that that information cannot be released.

I still have some major concerns, first, about the use of ministerial certificates because, as my colleague the Hon. Mr Griffin indicated, we can still have a situation where a Minister can claim that a certain document is a Cabinet document. The District Court can find that the Minister has acted incorrectly and improperly, yet the Government has defended a position where the Minister or the Premier will be able to say, 'Well, I disagree with the court.' He will still be able to prevent the release of that information. That is unacceptable.

Secondly, in respect of the five closely-typed pages of exemption documents and the 19 classifications, that has been defended successfully in large part by the Bannon Government. In particular, the loopholes in relation to Cabinet documents and internal working papers are so wide that one could drive several Mack trucks through them. I predict here and now that they will be used productively by the Bannon Government's Ministers to prevent the release, in some cases improperly in my view, of information that ought to be released publicly under genuine FOI legislation.

Thirdly, there are some potentially significant restrictions on access by members of Parliament to FOI legislation, and debate is still to come. An example of requests that could be made in other jurisdictions has been costed by various people between $1 000 and $1 500, and that for a document no greater than one centimetre thick and, as I said, potentially there are significant restrictions on access by members of Parliament to documentation that will prevent their effective operation as members of Parliament.

Fourthly, the cost problem remains, and it will serve to prevent access by most individuals in the community to documentation. On the one hand, we will have Government and its departments with unlimited amounts of taxpayers' money being able to fight and stall access to documentation, right through to the District Court and the Supreme Court, and as far as one wants to go, while on the other hand we will have the poor struggling individual trying to gain access to a document and, obviously, in most cases, not being able to fund their appeal process through any of those appeal procedures that might be available.

In conclusion, I predict that significant problems will ensue as a result of the passage of this legislation, and there will be significant problems for those who try to gain access to information from Government departments. There will be continuing battles, I predict, between the Government and bureaucrats, on the one hand, and the Opposition members of Parliament and the media, and journalists in particular, on the other hand, in trying to gain access to documentation.

I predict that perhaps the media might be able to afford some of the appeal processes perhaps more so than individuals and members of Parliament. Certainly, there will be a significant number of court battles in relation to gaining access. Finally, I support the motion as a compromise between the two Houses, but in my view the battle for true freedom of information legislation remains to be won in South Australia.

The Hon. C.J. SUMNER: I am sorry that the Hon. Mr Lucas has decided to be churlish about what is an important piece of legislation that has been agreed between the Houses—because churlish is just what he was. It seems that the honourable member has been carried away by his own rhetoric and the rhetoric that he established at the beginning of this debate, which he is still trying to maintain in the face of agreement on the legislation being passed. I would certainly dispute that this is the worst freedom of information legislation in Australia. It has been based, in the main, on legislation in New South Wales, which was introduced by the Greiner Liberal Government and which, to my knowledge, has been working quite satisfactorily in that State since it was introduced.

The Leader of the Opposition has criticised the use of ministerial certificates—or in this case what will now be premierial certificates. That is the situation which applies in New South Wales; it is the situation that was recommended in Queensland; and I believe that it also operates in the Commonwealth. So, it is not a unique South Australian provision, designed to restrict freedom of information.

As to the question of the exempt documents in the schedules, again, those exempt document provisions have been picked from existing legislation in other States, and in particular in New South Wales; this has not happened in every aspect, but generally they have been taken from that legislation. So, again, in South Australia we have been unique in the provisions on categories of exempt documents, although, as I said, they are not exactly the same and exactly

comparable. Generally, we have picked up exemptions that have been provided for in other States' legislation.

In South Australia, the access to members of Parliament is greater than that which is available now in the Commonwealth and New South Wales, where access to members was restricted. In the Commonwealth it was restricted after a review of the Commonwealth legislation carried out by the Senate Legal and Constitutional Committee, and a review carried out because of the abuse of the system in which members of Parliament were involved, and we heard of examples during the conference of where members were obviously requesting thousands of dollars worth of time and documents to be prepared, for very little purpose.

It was the abuse by MPs that required the Commonwealth to restrict their access. In South Australia we have said that there will be a certain degree of free access to information by MPs. Exactly what that amount will be has still to be determined in the regulations. However, I would think that we could determine it in relation to a monetary amount or in relation to a certain number of hours worked per application. That might be something like—

The Hon. R.J. Ritson: Like the postage allowance?

The Hon. C.J. SUMNER: Yes, something like that. It might be, say, three hours for each application, which would cover the simpler applications but would prevent abuse. Under this legislation, compared with the Commonwealth and New South Wales legislation, MPs will have access to a certain category of information up to a threshold of cost.

The question of cost is also dealt with in our legislation, providing a user-pays principle, which was accepted by the Hon. Martin Cameron as being something to which he was prepared to agree specifically. Costs are charged in the New South Wales and Commonwealth legislation, and I believe they were also recommended by the Queensland body that considered this matter.

On those four points raised by the Hon. Mr Lucas, provisions in the South Australian legislation are similar to existing legislation—not necessarily the Victorian legislation but certainly similar to New South Wales, the Commonwealth and what has been recommend for Queensland. I also predict that there will be problems with the legislation, because there are always problems with new legislation of this kind. I said in my opening remarks that I would anticipate that the legislation would need to be kept under review by the Parliament. I regret that I had to intervene to delay the adjournment, but the Hon. Mr Lucas's remarks could not go unanswered.

Motion carried.

ADJOURNMENT

At 2.9 a.m. the Council adjourned until Wednesday 3 April at 2.15 p.m.