LEGISLATIVE COUNCIL

Thursday 1 April 1993

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

QUESTION TIME

CHILD ASSESSMENT TEAM

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

Leave granted.

The Hon. R.I. LUCAS: The Child Assessment Team at Flinders Medical Centre is a multi-disciplinary team of professionals that does sterling work in assessing young children—mainly of primary school age—who have learning difficulties, speech and coordination problems, and significant behavioural problems. Great demands are placed on the services of the unit by teachers referring students for assessments. There is currently a six-week waiting period for assessment by the team, and a wait of anything up to a couple of months for certain follow-up treatment—up to a maximum of 18 months for some children who were seeking the help of speech pathologists.

The link between behavioural problems in students in the classroom and the cause of that behaviour, in some cases speech and hearing difficulties and in others psychological disorders, is well known. Teachers acknowledge that, unless there is early intervention in addressing some of these problems that are identified by units such as the Child Assessment Team at Flinders, children will face a school career of growing frustration and disillusionment that can sometimes be displayed as disruptive or even violent behaviour.

Several teachers have contacted my office, in the past 24 hours in particular, expressing grave concern at significant delays in getting students into the Child Assessment Team at Flinders Medical Centre and other similar assessment teams at other centres, and also at delays in getting children into the alternative learning centres operated by the Education Department. These alternative learning centres are the last option available to many teachers and principals in schools who are wanting to remove from the classroom—at least temporarily—students who might be highly disruptive and even violent in their behaviour and who have not benefited from the usual discipline and suspension processes.

The long waiting period for getting children into these centres has been a long running irritation and concern to schools. It was interesting to hear this morning the President of the South Australian Institute of Teachers, Ms Claire McCarty, highlight the fact that extra resources to such alternative learning centres are required if we are to overcome the rising incidence of violence in our schools. My questions to the Minister are:

1. Is the Minister concerned about the lengthy waiting periods that exist to obtain treatment and assessment at clinics such as the Child Assessment Team at Flinders Medical Centre and, if so, will the Minister discuss with her colleague, the Minister of Health, a joint ministerial approach to help reduce the waiting periods?

2. Will the Minister provide current details of the waiting periods existing at present at each of the Education Department's alternative learning centres, and what was the corresponding period 12 months ago?

3. What steps is the Minister initiating in an effort to reduce substantially the waiting period for students wanting to obtain help at these alternative learning centres?

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

STATE BANK

The Hon. K.T. GRIFFIN: I seek leave to make an explanation before asking the Attorney-General a question about the Auditor-General's report into the State Bank.

Leave granted.

The Hon. K.T. GRIFFIN: The Auditor-General's report into the State Bank, tabled yesterday, states in several places that certain matters should be further investigated. On page 17-77, relating to the bank's acquisition of Oceanic Capital Corporation, the report states:

> ...I am of the opinion that Mr T.M. Clark failed to disclose a direct or indirect pecuniary interest in the acquisition of Oceanic Capital Corporation which may constitute an offence pursuant to Section 11 of the Act and I am of the opinion that this matter should be further investigated.

This matter involved Equiticorp, of which Mr Marcus Clark was a director and shareholder, Equiticorp being a creditor in relation to Oceanic Capital Corporation. Related also to Equiticorp directly is the reference at page 26-32, where there is a recommendation that a range of other issues relating to loan and other facilities to Equiticorp or its subsidiaries should be investigated.

On page 10-41 there is a recommendation that, in relation to Celtainer, the matter there under investigation be referred to the Australian Securities Commission for further investigation.

There are other matters in the report where it appears that further investigations should be carried out to determine whether or not there has been a breach of the law. These may well be addressed in the final report and then by the royal commission but, in the meantime, there is a specific recommendation or indication that certain matters should be further investigated. So, my questions to the Attorney-General are:

1. What steps will the Government take in relation to the specific matters identified for investigation? Will those relevant to the Australian Securities Commission be referred now?

2. With respect to the other matters, will further investigations be undertaken now and, if so, by whom, or will the Government wait for the final reports of the Auditor-General and the royal commission before action

is taken to pursue the investigations recommended by the Auditor-General?

The Hon. C.J. SUMNER: Obviously, the Government would want any further investigations to be conducted as a matter of priority. I therefore intend to discuss the matter with the former counsel assisting the Royal Commissioner, Mr Mansfield, QC, who, as members know, has agreed to accept a commission to complete term of reference 4 of the royal commission.

Those discussions will centre on whether action can be taken now to pursue the matters referred to in the first report of the Auditor-General. The honourable member has quite rightly pointed out that the Auditor-General has made it clear that matters should be further investigated. That being the case, it may not be necessary for the Royal Commissioner to report on them before they are referred off to the appropriate authorities. However, I certainly intend to go through the report, identifying all those areas where there is a suggestion that further investigation or action might be needed, and then we will hold discussions with the Royal Commissioner designate to see what approach we can take to getting the matters dealt with as quickly as possible.

I am sure all South Australians would agree that, if any legal action, civil or criminal, can be taken or if any investigations are required this should be done as quickly as possible. I agree that if possible they should be referred now and that further investigations should be conducted now, if indicated. The process for doing that I will ascertain after discussions with the parties involved.

The Hon. K.T. GRIFFIN: I ask a supplementary question: when decisions have been taken will the Attorney-General report those back to the Council in due course?

The Hon. C.J. SUMNER: Yes.

SHIPPING SERVICES

The Hon. DIANA LAIDLAW: I seek leave to make an explanation before asking the Minister of Transport Development a question about shipping services.

Leave granted.

The Hon. DIANA LAIDLAW: I have received a complaint from a large South Australian exporting company on behalf of a number of South Australian exporters about the campaign being waged by the Department of Marine and Harbors to oppose changes that the ANRO consortium is considering making in its services from Singapore to the port of Adelaide. The department's Director of Commercial Services, Mr Parham, accompanied by a representative of the South Australian Shipping Users Group, is visiting ANRO clients pressing them to tell ANRO that the proposed new services are not acceptable. As part of this campaign, ANRO clients are being told that if ANRO introduces its new services the Department of Marine and Harbors will work to ensure that effective replacement shipping services are attracted to Adelaide.

Currently, ANRO operates a fortnightly service from Singapore to Adelaide and return, stopping at Fremantle on both legs of the trip. ANRO is considering scrapping this south-west service in favour of a weekly service from Singapore via Brisbane, Sydney and Melbourne to Adelaide, and then direct to Singapore, without stopping at Fremantle on the return trip. The exporter who contacted me is bewildered, as he says are other exporters in this State. He asks why the Department of Marine and Harbors and the Shipping Users Group are working overtime to stop ANRO's proposed new south-east service. The new service, if it eventuates, will double the frequency of ANRO services between Adelaide and Singapore from two to four per month, and of course Nedlloyd operates additional fortnightly services from Singapore to Adelaide via Fremantle. Indeed, I have been told by an independent source that the proposed new ANRO services will provide at least 80 per cent of South Australian users of the Outer Harbor container terminal with a much improved service.

While importers may find that it takes a little longer to bring goods from Singapore into Adelaide via the proposed new south-eastern route, South Australian exporters generally will be offered far greater access to Singapore and the strategically important South-East Asian markets, markets which the A.D. Little report says South Australia must penetrate. As the exporter who contacted me said, the more calls that ships make to Adelaide the more space all South Australian exporters will have for the trans-shipment of containers via Singapore to other destinations in South-East Asia and the Middle East. My questions are:

1. As I understand that one of the corporate objectives of the Department of Marine and Harbors is to help South Australian business, in particular exporting businesses, by increasing the number of shipping services between Adelaide and Singapore, will the Minister explain why the department is so vigorously opposed to the proposed move by the ANRO consortium to double the number of calls its ships make to the port of Adelaide *en route* to Singapore?

2. Will the Minister advise whether or not she has endorsed the campaign of opposition being waged by the Department of Marine and Harbors against the ANRO consortium, including what has been described to me as the unethical practice of DMH employees actively lobbying ANRO clients to protest about service changes, changes which exporters argue will be in their and South Australia's best interests?

3. Finally, in respect of the department's threat, as stated in correspondence, 'to work to ensure effective replacement shipping services are attracted to the port of Adelaide' if ANRO's new south-east service eventuates, will the Minister confirm that the Department of Marine and Harbors will approach the American based shipping centre, Sealand, to provide such replacement services?

The Hon. BARBARA WIESE: I am not in a position to be able to confirm what the honourable member claims about the actions of particular officers within the Department of Marine and Harbors on this matter. They certainly do not give me a copy of their program of activities or a list of the people they are having appointments with. What I can indicate is that the Commercial Operations Manager, Mr Parham, of the Department of Marine and Harbors, to whom the honourable member has referred, is a very committed and enthusiastic advocate of shipping services and the expansion of shipping services for the port of Adelaide. He has devoted considerable time, attention and energy

to meeting with shipping companies, clients of shipping companies and whomever else he can possibly gain access to in order to advocate the port of Adelaide and the work that is currently under way to try to boost the shipping services through the port of Adelaide.

The Hon. Diana Laidlaw interjecting:

The PRESIDENT: Order!

The Hon. BARBARA WIESE: Do you want the answer, or would you like to give the answer as well as the question?

The Hon. Diana Laidlaw interjecting:

The PRESIDENT: Order! The Hon. Miss Laidlaw will come to order. The honourable Minister.

The Hon. Diana Laidlaw interjecting:

The PRESIDENT: Order!

The Hon. BARBARA WIESE: Would you like the answer, or would you like to give the answer yourself?

Members interjecting:

The PRESIDENT: Order! The Council will come to order. The Hon. Miss Laidlaw will come to order. The honourable Minister.

The Hon. BARBARA WIESE: I have indicated very clearly that there is not a stronger advocate for improved shipping services through the port of Adelaide than the officer whom she claims is working against the interests of the port of Adelaide. As I have also indicated, Sir, he is working actively and strenuously to ensure that the services for South Australian business and the port of Adelaide are improved as quickly as we can possibly improve them. The honourable member in this place has raised numerous times the need for us to lower the port charges and other things. That is the exact direction that the Government is taking. We know that in order to

pursue our policy of lowering prices we must—

The Hon. Diana Laidlaw interjecting:

The PRESIDENT: Order!

The Hon. BARBARA WIESE:—also pursue a program of improving the number of shipping services and the volume of cargo which is being brought through the port of Adelaide. That is the goal of people within the Department of Marine and Harbors: that is the goal of the Government. As to the specific allegations that the honourable member makes about an officer within the Department of Marine and Harbors and activities that she alleges that he has been involved in with respect to ANRO shipping services, I will seek a report on that and I will bring back—

The Hon. Diana Laidlaw interjecting:

The PRESIDENT: Order!

The Hon. BARBARA WIESE: —information to the Council on this matter. But, Sir, I feel very confident that the work that Mr Parham has been engaged in since he was employed by the Department of Marine and Harbors has been very much in the interests of South Australian business, boosting the South Australian economy and also boosting the number of shipping services through our port.

BREAD

The Hon. CAROLYN PICKLES: I seek leave to make a brief explanation before asking the Minister of Consumer Affairs a question about bread.

Leave granted.

The Hon. CAROLYN PICKLES: I have been informed that members of the retail industry believe that they have a right to begin asking manufacturers for credit for unsold bread. It was my understanding that this practice was not permitted under the regulations of the Prices Act. Can the Minister explain the correct situation with regard to whether or not this is permitted under the Act?

The Hon. ANNE LEVY: It has been drawn to my attention that the Retail Traders Association has been indicating to some of its members that they were now able to demand credit for unsold bread from the manufacturers from whom they had obtained the bread. This obviously arises from a misunderstanding. There were regulations under the Prices Act which were promulgated in 1985 which make it very clear that such a practice is not permissible for bread and bread rolls, that a request cannot be made by the retailer to the manufacturer to credit unsold bread. As all honourable members will know, in 1987 we passed the Subordinate Legislation Expiry Bill which indicated that regulations made in 1985 would sunset on 1 January 1993. But in 1992 the sunsetting dates were changed by this Parliament and regulations made at the time that the bread regulation was made now do not sunset until 1 September 1997.

I understand that the Retail Traders Association was not aware of the change in the sunset date which occurred last year but as soon as this error had been drawn to their attention they agreed to contact all retailers to point out the correct situation to them. There has, of course, been some consternation in the last few days amongst manufacturers in the bread industry, both on the part of employers and employees, but I think their fears have now been allayed, as everyone in the industry I hope is now well aware that the regulation does not sunset until the latter part of 1997.

RAPE CRISIS CENTRE

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister representing the Minister of Health, Family and Community Services a question in relation to the Adelaide Rape Crisis Centre.

Leave granted.

The Hon. M.J. ELLIOTT: This matter was raised several weeks ago and it appears to be continuing to cause a great deal of concern in the community by the amount of contact that I have had. After some centuries of being hidden, the crime of rape is increasingly attracting community awareness and concern. Over recent years we have certainly seen specialised support and help services for the victims developed with sensitivity and purpose. Often they were started and staffed by people whose lives have been altered by the crime. Out of this background, significant concern is being voiced about a recent Government review of services in Adelaide.

It is my understanding that the Health Commission is now considering formally recommending the amalgamation of the two agencies providing services for survivors-the Adelaide Rape Crisis Centre and the

Sexual Assault Service. I have been told that in the course of the review no consultation was held outside the bureaucracy. Service providers were consulted but no past or present clients were asked for their views on what and how services should be provided. It raises the question of whether the proposed amalgamation is a reaction to the difficult financial times within the Health Commission or driven by genuine service provision concern. The people who have contacted me are concerned that there is a danger that the streamlining that is being proposed, if done wrongly, will not create a sensitive service. I ask the Minister the following questions:

1. What were the reasons for undertaking the review?

2. Who was consulted in the course of the committee's review?

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

STATE BANK

The Hon. L.H. DAVIS: I seek leave to make a brief explanation before directing a question to the Attorney-General as Leader of the Government in the Council about State Bank advertising.

Leave granted.

The Hon. L.H. DAVIS: Recently the State Bank of South Australia commenced an intensive advertising campaign on television and in the *Advertiser* and *Messenger* press newspapers. This advertising campaign is called 'Amazing Grace' and the banner headlines state 'Now there's a bank with the grace to let you buy before you sell your home: six months amazing grace'. The copy goes on to state:

> Subject to your ability to repay and the equity you have, we will lend you up to 100 per cent of the purchase price of the property you propose to buy, pending the sale of your existing home... The interest on your new mortgage will be at 8.2 per cent per annum fixed for the first 12 months (as long as your house is sold within six months).

This campaign is obviously costing tens of thousands of dollars and is clearly an aggressive campaign designed to gain the State Bank market share in the housing finance market, but the campaign has raised concern among leaders in the financial community as well as the real estate industry. It has been put to me that borrowers under the 'Amazing Grace' scheme are being encouraged to think this is a regular way of making what for most people is the biggest investment in their lives. It is seen by many as an over-zealous campaign which could have unintended and destructive consequences if the first property of the borrower is not sold. I have been advised that people ringing for details of the 'Amazing Grace' scheme have been told that, if their first house is not sold within six months, the State Bank's rate of interest on the new home loan leapfrogs from 8.2 per cent to 11.2 per cent, which is at least 1.25 per cent above any other new housing interest rates on the market.

Inquirers have been assured that they did not have to demonstrate an ability to service the interest payments on both the new house and the house they are trying to sell. Eligibility is basically assessed on the capacity to service the new home loan. The State Bank also apparently advises that, if the original house is not sold within 12 months, then the contract is reviewed and the State Bank might ultimately have to sell the new property. Real estate industry sources and financial advisers point out that some houses are not selling easily and, in this depressed economy, some houses are actually withdrawn from the market through lack of interest or because no-one is prepared to offer a sufficient price.

I have been contacted by people in the real estate industry and the financial community who believe the campaign is over-zealous and offering a bait to people who may find that they are financially worse off under the 'Amazing Grace' scheme, because they cannot sell their first house. It is one thing for a financial institution to respond to an inquiry of a person or family who seeks to buy a new house before selling the present house, but it is a quite different thing to see an expensive and aggressive advertising campaign being mounted in a badly recessed economy which suggests that buying a new house before selling an existing house is a sensible option.

The fact is that the financial institutions offering housing finance invariably suggest that it is more prudent to have a contract on a new home subject to the sale of the existing home. But 'Amazing Grace' is an open-ended and risky option which could have disastrous consequences. As one of my contacts described it, it is not 'Amazing Grace'; it is really 'Amazing Advertising'. My question to the Attorney is: does the Government agree that this tempting and expensive advertising campaign is misplaced and may have unintended and unfortunate financial consequences for people who find that the 'Amazing Grace' scheme leaves them with two housing loans to service rather than just one?

The Hon. C.J. SUMNER: Not necessarily. I should have thought that the honourable member, in the entrepreneurial spirit which he usually advocates in this House, would be commending the State Bank for offering another product to South Australians—

Members interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER:—very much within the charter of the State Bank, as everyone—

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: I do not recall seeing in that report an expose of the State Bank's housing loan policy. In fact, I do not think it was mentioned, so one assumes that what they have done in that area at least was satisfactory.

The problems of the State Bank arose out of its commercial lending portfolio, not out of its house lending portfolio. The key to the current campaign of the State Bank is whether or not consumers are getting all the information to which they are entitled in order to make a reasonable, informed decision about whether or not they should enter into this commitment. These days, given the sorts of financial products that consumers are bombarded with from time to time, consumers are more sophisticated about making those assessments and are usually better informed than perhaps they were 15 or 20 years ago. Certainly they need to be more and better informed because the range of products that are offered

not just in this area but in the whole range of financial products which are on offer mean that consumers do need to be more informed in order to make a decision appropriate to their circumstances.

If there are concerns about this form of advertising—and there is a procedure whereby these matters can be examined and inquired into—there is a Minister of Consumer Affairs, a Department of Consumers Affairs and a Commissioner for Consumer Affairs in South Australia, and they can no doubt look at these issues from a consumer's point of view. As far as I am concerned, provided that the bank is not misleading anyone and provided that the consumer is fully informed about all the implications of the product that is being offered, I do not necessarily agree with the honourable member that what it is doing is ill advised.

GRAIN CARTAGE

The Hon. I. GILFILLAN: I seek leave to make an explanation before asking the Minister of Transport Development a question about grain cartage in South Australia.

Leave granted.

The Hon. I. GILFILLAN: I have been advised that, with the standardising of the line between Melbourne and Adelaide, there will be an inadequacy in the rail system to pick up grain from several major grain silo centres, such as Tailem Bend, Coomandook, Tatiara, Keith and Wirrega because the link between the silo pick up and the standard line will be the current broad gauge and, therefore, ineffective. That is estimated to result in approximately 100 extra semi-trailers through Adelaide each day in the grain carting season.

The Hon. Diana Laidlaw: No, not the grain cartage season: over the full year. Averaged over the full year it would be 100.

The Hon. I. GILFILLAN: I am now benefiting from even better advice, that is, that the estimate is that 100 extra semi-trailers will go through Adelaide, one assumes, every business day of the year. However, whether or not that total is accurate, what is unarguable is that the inability to carry this grain on rail will result in horrendous increases in heavy traffic down very tortuous roads in the Hills, which is a problem in itself, resulting in extreme damage to road surfaces, apart from the risk of accident. There is understandably quite widespread concern that this situation must not be allowed to happen.

It is clear that the Commonwealth Government and the National Rail Corporation will not accept responsibility for connecting the pick up from the silos to the new standardised gauge, and the Victorian Government has recognised that and allocated funds to connect its State silos to the new standardised rail gauge. I ask the Minister:

1. Is she taking steps to ensure that grain will continue to be carried by rail from the silos that I outlined and others affected by the standardising of the Melbourne to Adelaide railway?

2. Does she agree that the Federal Government and the National Rail Corporation have refused to, or do not, accept responsibility for connecting those isolated silos and claim that it is the State Government's responsibility?

3. What plans does she have to ensure that the grain will be able to be taken directly from those silos onto the standardised rail and thus avoid the threat of this totally unacceptable increased road transport of grain, and at what cost?

The Hon. BARBARA WIESE: I am aware of this problem, and I am taking action on it. With the release of the One Nation statement quite some time ago and the allocation of resources for the upgrading and standardisation of the line between Melbourne and Adelaide, it was believed that as part of the program the rail sidings to silos to which the honourable member referred would be part of the scheme; if not, then the whole issue of upgrading is really a misnomer. However, I understand that recently the National Rail Corporation has indicated that it has no intention of allocating resources for this work and that it would not support such work occurring.

I can understand the NRC's point of view on this matter, because it has been established to be an interstate rail authority, and it views this business as intrastate business. The situation, as the honourable member would be aware, is different in South Australia from that in Victoria, in that since 1976 we have not had a State rail authority. We handed over our State rail authority to the national Government in 1976 when it wanted to establish Australian National. So, some of the responsibilities which are being accepted within Victoria by the Victorian Government are responsibilities which must be accepted by the Federal Government in our case as part of the State rail transfer agreement.

I believe that South Australia has a very strong position to put to the Federal Government on this matter under the State transfer agreement, because as part of that agreement it is required to satisfy continuing demands. They are not the exact words that are used within the agreement, but they are words to that effect. It is quite clear that there is demand in this area, because the contracts which currently exist between Australian National and South Australian Cooperative Bulk Handling Limited for the transport of grain within South Australia still have some years to run.

I am therefore writing to the Federal Minister about this matter, outlining the issues very clearly, and making very clear to the Federal Government that in the view of the State Government this is a responsibility which must be picked up by the Commonwealth Government; whether it be through funding to the NRC or funding to AN, this matter must be addressed. I should say, too, that it would have to be acknowledged that the costs involved in doing this work are very insignificant in the overall scheme of things in the allocations of moneys that have been already provided for this upgrading and standardisation project between Victoria and South Australia.

My first step is to put all these concerns in detail in writing to the Federal Minister, and it is then my intention to follow that up with personal contact in the very near future, because I want to discuss this issue and a number of other rail and transport issues with the

Minister who has taken full responsibility for the area of transport since the most recent Federal election.

The Hon. I. GILFILLAN: As a supplementary question, the history of this State Government in enforcing its rights with Australian National and the Federal Government is not good. Therefore, if indeed the Federal Government refuses to come forward with the funds for these connections, what plans would the Minister have then?

The Hon. BARBARA WIESE: That is a hypothetical question and I do not propose to address it at this point because I believe that the State has a very strong case under the State Rail Transfer Agreement on this matter. The State Government has been very successful in forcing the Federal Government to meet its obligations under the transfer agreement on a number of issues.

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order! The Hon. Mr Davis will come to order.

The Hon. BARBARA WIESE: I suggest that in this case the Government has a strong case. We will be pressing that case with the Federal Government and I certainly hope that we will be successful.

STATE BANK

The Hon. J.F. STEFANI: I seek leave to make a brief explanation before asking the Attorney-General, representing the Treasurer, a question about travel arrangements for State Bank executives.

Leave granted.

Members interjecting:

The PRESIDENT: Order! The Council will come to order.

The Hon. J.F. STEFANI: I have been informed that in November 1989, at an executive committee meeting within the State Bank, travel and accommodation within Australia and overseas was discussed. A travel policy was presented and adopted recommending that chief managers within the State Bank group be permitted to travel first class when travelling internationally. In September 1990 the executive committee further agreed to adopt a policy whereby chief general managers, general managers, State managers and respective chief managers retained their corporate membership of one airport lounge facility—either Flightdeck or Golden Wing—and that such membership should be paid for by the bank.

In an attempt to reduce the operating expenses of the State Bank Group, which for the year 1990-91 had been budgeted at $500 million, the executive committee indicated that it would review its travel policy by seeking justification for executives to fly first class in lieu of business class when undertaking domestic travel. In February 1991 a memo from the Chief General Manager, Group Management Services (Mr Mackie), was circulated to chief general managers, general managers and chief managers stating that as from 15 February 1991 all travel within Australia would be economy class. My questions are:

1. Will the Treasurer advise what is the bank's policy in relation to overseas travel undertaken by the bank's executives and board members?

2. Will the Treasurer advise what is the bank's policy in relation to travel arrangements undertaken within Australia by the bank's executives, including board members?

3. Will the Treasurer indicate to what level of executive status the first class and business class travel applies within the State Bank group, and how many executives are currently provided with corporate membership to airport lounge facilities?

4. Will the Treasurer advise the cost of first class air travel undertaken within Australia and overseas by the bank's executives for the financial years 1989-90, 1990-91, 1991-92 and the period 1 July 1992 to date?

The Hon. C.J. SUMNER: Once again, the honourable member delves back into history, going back to 1989 to try to make some comparisons with the present day. He should not try to make those comparisons because it is quite clear to everyone that the bank at the present time is a completely different organisation with different management and a different board from that which existed prior to February 1991. In fact, I am somewhat surprised that the management of the bank in 1989 limited itself to first class air travel; consistent with its view of its own importance in the financial world in Australia, I am surprised it did not have personalised private jets to take its members around Australia. However, it seems as though it was overcome by a fit of modesty and humility and decided to travel only first class. For that we can be thankful, I suppose, because there is not much else that we can be thankful for in this sorry saga.

I make those points to indicate to the honourable member that there seems little point in delving back into February 1989 (or whenever it was) in order to draw conclusions about the current practices within the bank. However, the honourable member has said that in February 1991 (which, I guess, coincided with the news that the bank was not in quite as good a financial situation as the executives travelling first class up to that time had thought it was) the new directive to travel economy class was issued. I cannot say what is the current policy within the bank, but I will refer the question to my colleague to determine whether he can provide a reply.

HEALTH PROMOTION UNIT

The Hon. BERNICE PFITZNER: I seek leave to make a brief explanation before asking the Minister representing the Minister of Health, Family and Community Services a question about the Health Promotion Unit at the Queen Elizabeth Hospital.

Leave granted.

The Hon. BERNICE PFITZNER: A coordinator/director of the Health Promotion Unit at the Queen Elizabeth Hospital has recently been appointed or is about to be appointed. I understand that a board is attached to this unit but that some members of the board or the advisory committee are not even sure whether the Health Promotion Unit is functioning. There are also other different medical units, for example, the Diabetic Unit, the Cardiac Unit and the Respiratory Unit, which could have health promotion programs on diabetes for

the Diabetic Unit, on high blood pressure for the Cardiac Unit and on asthma for the Respiratory Unit.

It would seem to me that those other medical units with their available educational material could just as well form a health promotion program without need for extra funds to be spent on setting up a separate entity, especially with the present situation of the scarce health dollar. My questions are:

1. Does each large public hospital in the metropolitan area have a separate Health Promotion Unit?

2. If they do, what is the justification for these separate units?

3. Will the Minister look into health promotion availability from the different medical units, with a view to forming a more coordinated, efficient and effective health promotion service?

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

BUS SHELTERS

The Hon. J.C. BURDETT: I seek leave to make a brief explanation before asking the Minister of Transport Development a question about bus shelters at the Modbury interchange.

Leave granted.

The Hon. C.J. Sumner: Declare your interest.

The Hon. J.C. BURDETT: I don't need to. This is obviously a parish pump question.

The Hon. C.J. Sumner: Who's your constituent on this occasion?

The Hon. J.C. BURDETT: That will come out. I am sure that the Minister will be well aware of the problem. I refer to an article in the *Messenger Leader* of 24 March. All I am seeking to do is get information as the state of play of what is clearly a problem at the present time. The article states that:

More than 250 residents [and they are the constituents] have signed a petition in a last-ditch attempt to get a shelter at Modbury interchange. The 251-signature petition urges the State Transport Authority...to replace shelters removed from the interchange about 18 months ago. Tea Tree Gully Senior Citizens Action Group spokeswoman Kath Hallett, who has been lobbying for the shelters, said the STA removed the enclosed perspex shelters because of graffiti but had promised they would be returned.

Mrs Hallett said she did not mind if there was graffiti provided there was adequate shelter from the wind and rain, particularly for elderly commuters or parents with young children. 'This petition was the last thing, I didn't know what else to do,' Mrs Hallett said. Newland MP Dorothy Kotz, who organised the petition and presented it to State Parliament recently said negotiations were continuing between Tea Tree council and the STA for new up-market shelters across the city. Mrs Kotz said it would be much cheaper to buy shelters in bulk, but her major concern was getting shelters at the interchange as soon as possible. An STA spokesman said it was sympathetic to the problem at the interchange and that options would be considered and a plan decided within the next month.

Obviously, it is more urgent than within the next month because it is now autumn and shortly it will be winter. The article concludes:

He [the spokesman] said the bus stops had been removed for security reasons because the STA was concerned 'unsavoury people' were hiding behind the enclosed shelters.

My question is: will the Minister say what is being done about this problem?

The Hon. BARBARA WIESE: I thank the honourable member for his confidence in my ability to have a detailed knowledge of most of the things that are happening in my portfolio, but I have to admit that what is happening at every individual bus shelter in the metropolitan area is stretching my capacity a little far. I admit that I do not have detailed knowledge of those matters; however, I shall be pleased to refer the honourable member's inquiry about the Modbury bus shelter to the State Transport Authority and bring back a report as soon as I can.

WINE LABEL

In reply to **Hon. I. GILFILLAN** (9 February).

The Hon. C.J. SUMNER: The Minister of Emergency Services has provided the following information:

The matter has been investigated and the bottle of port was produced by the Whyalla Police Social Club.

The investigation revealed that a committee of nine persons were elected to the social club in 1986. The Whyalla Social Club is not an incorporated body and committee meetings were conducted with any available members of the station staff.

The production of this port label occurred some seven years ago and only five of the Committee remain employed as Police Officers. Police Department Legal Officers advise that there would be difficulties in any subsequent prosecution because it is difficult to establish who actually designed the label.

Those members of the Committee who remain employed within the Police Department will be counselled in terms of ethics and the Departments statement of values. I assure that these aspects are being continually reinforced in training programs both at the recruit level and throughout the Department.

The Police Department apologises to the Aboriginal Community in general for the production of the label and particularly to the person mentioned.

STATUTORY AUTHORITIES

In reply to **Hon. L.H. DAVIS** (10 March).

The Hon. C.J. SUMNER: The Minister of Primary Industries has provided the following response to the second part of the Honourable Member's question:

Graeme Higginson was appointed as Chairman of the South Australian Timber Corporation in June 1988. Mr Higginson came into the job aware of the problems facing the Corporation and has brought to bear his significant commercial experience in developing appropriate strategies and solutions in conjunction with the other Board members. The value of the Board's work is evidenced by the improvement in reported profits of the Corporation, viz. a loss of $3.82 million in 1988 compared with a profit of $1.06 million in 1992 with a further improvement expected in 1993.

SATCO

In reply to **Hon. L.H. DAVIS** (14 October).

The Hon. C.J. SUMNER: The Minister of Primary Industries has provided the following response:

1.The Chairman of the Corporation has advised that the prime purpose of this business travel was to follow up organisations who had earlier expressed interest in taking up Scrimber production licenses.

The Government's decision to withdraw funding for this project and seek external capital to complete the work represented a significant turning point and justified the several visits involved to clarify the status of the project and outline future options under consideration by members of the Scrimber Consortium.

The travel was undertaken with the full knowledge and support of members of the Scrimber Consortium, viz. CSIRO, Rafor Limited, SATCO and SGIC.

The purpose was not to sell the Scrimber product. The interest of the organisations visited lies rather in them becoming licensed producers in the future and therefore maintenance of such contacts and confirmation of the extent of their on-going interest were regarded as critical by members of the Scrimber Consortium if they were to continue to try and develop the technology for the benefit of the State.

2.The Chairman, SATCO, is also Chairman of the Scrimber Consortium Management Committee.

Mr. Roger White was appointed General Manager of SATCO in the last quarter of 1991, in addition to which he had been directly involved with project engineering consultants in mid-1991 and, in consequence, had a detailed understanding of the technical problems which led to the plant being closed. For these reasons, he made an important contribution to discussions with the parties visited.

Mr. Max Campbell was previously Licensing Manager for Scrimber International and had developed a very good personal rapport with a number of companies in South East Asia. Successful business relationships in the Asian region depend on establishing confidence and trust and Mr. Campbell was well regarded by key prospects. With the closure of the plant, this visit formalised the change in personal contact from Mr. Campbell to Mr. Higginson. He therefore accompanied Mr. Higginson on visits within this region.

3.About 56% of the total cost was for air fares reflecting the requirement to travel between 12 overseas cities in the space of 21 days. Intensive travel, such as this, is not evidently available at excursion rates.

I am advised that the suggestion that accommodation and other expenses cost more than $450 per person-day is incorrect. Rather the cost is calculated out at daily rates of $268.25 for accommodation and $157.81 covering car hire, taxis, ground transport, meals, entertainment, tips, and currency exchange etc.

Private travel consultants well known in Adelaide have confirmed that these costs are not excessive given the nature of the travel involved.

4. I am unable to add anything further to the previous answer given to the Hon. Member in respect of cities visited.

5. I have discussed the matter with both the Chairman and General Manager of SATCO and the suggestion of a cover-up is not correct.

These expenses were incurred in the 1991/92 financial year and I would have expected any suggestion of wrong doing in this matter to have been brought to the attention of the Parliament in the Auditor-General's report.

In these circumstances, the further investigation called for by the Hon. Member is not warranted.

GOOLWA PRIMARY SCHOOL

In reply to **Hon. R.I. LUCAS** (16 February).

The Hon. ANNE LEVY: The Minister of Education, Employment and Training has provided the following response:

1. The Education Department's intention is to relocate the Goolwa Primary School onto the new school site, as and when it achieves sufficient priority within the funds available.

2. No. The decisions to defer the Goolwa Primary School relocation have been taken on the basis that identified higher priority works absorbed and have continued to absorb annually, the available Education Department Capital Works Programme funds.

TEACHERS

The Hon. PETER DUNN: I seek leave to make an explanation before asking the Minister representing the Minister of Education, Employment and Training a question about itinerant teachers.

Leave granted.

The Hon. PETER DUNN: Students who use the Open Access College either for correspondence or School of the Air lessons in the Outback are visited regularly by teachers known as itinerant teachers. The parents and governesses who teach these children have come to rely on these visits, and from information I have received they are well respected. However, there appears to be a smaller number. This year in the more remote regions of the State about 24 new students will enrol at the Open Access College. Some will leave, but I understand that 14 of those new students will be from new families. Therefore, there will be a requirement for more teachers, because parents and governesses believe that students need at least one visit per term by those teachers. At the moment that is not happening.

There needs to be a formula based on distance and the number of students that each teacher has so that those visits can be maintained. My question is: will the Minister consider diverting a couple of current teachers to itinerant teachers so that each student can receive at least one visit per term from an itinerant teacher?

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

TRANSPORT DEPARTMENT

The Hon. DIANA LAIDLAW: My questions are directed to the Minister of Transport Development and they relate to a megatransport department. First, will the Minister confirm that as part of the Premier's forthcoming statement a new megatransport department is to be established comprising the Department of Road Transport, the Department of Marine and Harbors and the STA? I raise this question following advice I have received on this matter. Secondly, if that is so, why is the Government proposing such an amalgamation when the agencies involved have incompatible goals and

functions? For instance, the Department of Marine and Harbors is designated by the Government to be a commercial business enterprise, while the STA is a heavily subsidised agency fulfilling community service obligations. Thirdly, does the Government propose that the Metropolitan Taxi Cab Board be repealed as part of its megadepartment plan and, if not, what action does the Minister propose to take to address the messy regulatory arrangements that currently frustrate the operation of passenger transport services within the metropolitan area?

The Hon. BARBARA WIESE: In response to a previous question from the honourable member, I have indicated to her that I am currently considering matters relating to the Metropolitan Taxi Cab Board and other issues associated with passenger transport. Those matters are still under consideration. As to what may or may not be in the Premier's economic statement, I am certainly not in a position to make any pronouncements whatsoever. That is a prerogative for the Minister.

The Hon. Diana Laidlaw: You cannot confirm or deny?

The Hon. BARBARA WIESE: I cannot confirm or deny, but that does not indicate anything at all. No doubt when the Premier puts together his economic statement, which I presume will be far reaching and significant for the future of South Australia, he will make his intentions clear, but I do not think the honourable member should rely on her sources for anything because invariably they seem to be wrong.

DEVELOPMENT BILL

Second reading.

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

The legislation before the House represents the culmination of a process of study, review, and consultation over a period of almost three years.

The establishment of the Planning Review, the publication of 2020 Vision, and the comprehensive process of consultation which underpinned the work of the Review team, are reflected in the Bill we are now considering.

However, the Bill is also the continuation, and the next step, in the development of a planning system for Adelaide which has a much longer history.

In 1962 Stuart Hart drew up a plan for Adelaide which formed the policy basis for the next thirty years. The 1967 *Planning and Development Act* set out the statutory control system to implement that plan. Over time there were modifications to those controls. Most notably the 1976 Inquiry into the Control of Private Development which led to the 1982 Planning Act.

The emphasis over this period was on a physical plan enshrined in a development control system. However, in the more complex world of the nineteen eighties it became clear that this focus was too narrow and had resulted in a system concerned with control. The emphasis was on what could not be done rather than facilitating the planning of what should be possible.

The history of planning legislation demonstrates that Acts and Regulations cannot exist in a vacuum. Nor can they operate without the support of a broad community consensus that the system is essentially fair, accessible, and consistent. Recent history shows that by the end of the nineteen eighties, for a variety of reasons, consensus had been overtaken by division with the result that planning authorities lacked the confidence to plan, developers lost the incentive to develop, and the broader community lost faith in the ability of the system to maintain and extend their physical environment.

The result has been an all pervasive perception that the South Australian community is incapable of supporting imaginative, value added development. Irrespective of the accuracy of that perception our task is to address these challenges.

The Government's Economic Development and Planning Strategies will give the necessary clarity and direction to attract and facilitate investment in South Australia's future. The Government is firmly committed to achieving sustainable development, meeting the community's social, environmental and economic aspirations. These initiatives are founded on a partnership approach between Government and the community. This Bill forms part of this process.

Consistent with the collaborative approach promoted by the Government, the terms of reference of the Planning Review and its method of operation, were directed towards reaching a shared vision for the future development of Adelaide that would support changes in legislation and procedures. It is why this legislation is designed to establish a process by which that shared vision can be maintained, renewed and held relevant to the planning system and the State's economic strategy.

Work on the Planning Review and Strategy and formulation of the legislative framework for future development have proceeded in concert with related legislative reforms. They include the planned *Environment Protection Bill* and revamped *Heritage* and *Coast Protection Acts.*

In the next Parliamentary session, the Government intends to introduce the new Environment Protection legislation, establishing a South Australian Environment Protection Authority and single, integrated environmental licensing system for ongoing oversight safeguarding the quality of our environment.

The Government is working to ensure that the *Development Bill* and the proposed *Environment Protection Bill* are directed towards facilitating sustainable development and that the two key legislative measures dovetail and link in important respects. Vital linkages relate to both policy formulation and integrated decision making on development applications.

The *Development Bill* becomes an important, integrating legislative scheme.

The Bill is founded on three broad principles.

The first is that legislation which sets the framework for the physical development of metropolitan Adelaide and the rest of the State must be based on strategic planning for the future and focus on achieving results. It must relate to the overall economic, social and environmental strategies for the State as a whole.

The second is that it must resolve any conflicts which arise quickly, and with certainty.

The third, is that the systems and processes it establishes to carry out its objectives must be as simple as possible, visible, and fair.

The Bill introduces a number of key reforms to the planning system to support these principles. Of fundamental importance is provision for the preparation and publication of a Planning Strategy which sets out the Government's vision for the development of the State. The Strategy itself will not be a statutory document. However, it will link the statutory plans with the process of Government policy formulation and decision making. It will ensure that Government policy is declared and accessible. The community will be involved in the preparation of that strategy and the Bill requires the Premier to report regularly to Parliament on that consultation process, the implementation of the strategy, and any alterations which have been made to it.

Work on the Planning Strategy, including detailed area plans is already underway. This work involves consultation and collaboration with Local Government. It is expected that the Planning Strategy for metropolitan Adelaide will be finalised later this year with the work on the rest of the State completed by 1995.

The new provisions to resolve conflicts and to manage contentious developments, are also significant. In relation to major projects a new Environmental Impact Statement process requires specific guidelines to be prepared for each project to specify the scope and level of assessment needed. The Bill also allows an early "no" decision which is not possible under the existing legislation. This will impose a certain discipline on Government to be clear and prompt in its initial consideration of projects. That consideration will be aided by reference to the Planning Strategy. More importantly the new process will allow for proponents to be given progressive approvals, giving them greater certainty before the preparation of costly detailed designs.

The Government understands and accepts that all sections of the community, from the largest developer to the smallest home renovator, need a planning approval system which is simple to understand and use.

At present proponents are faced with the difficult problem of gaining a variety of licences, consents, permissions and approvals from a multiplicity of Government agencies and local councils. While the *Development Bill* does not integrate all these requirements into one piece of legislation, it deals with those which are most significant and establishes an integrated development control system based on local government as a single point of access for developers. It also links with other legislation referred to earlier. In addition it also provides the framework for a wide range of development controls to be incorporated into this integrated system over time.

To reduce this to everyday examples. Under the present system to build a house requires two applications if planning consent is required. Under this Bill that is reduced to one application with one approval covering all matters.

For infill development, or Strata units, three applications are required at present, with the potential for universal notification and third party appeal. The Bill reduces this to one development application, one approval with the possibility of neighbour notification with no appeal.

For complex commercial development a single application will be required for planning, building and land division.

In all cases approval can be granted in stages if the applicant so desires.

Under this legislation the criteria against which applications of the type I've referred to will be assessed are to be set out in statutory planning policy documents to be called Development Plans.

The legislation provides for these plans to reflect the overall Planning Strategy and to contain matters of a social, economic, environmental and land use nature. They may also set out objectives or principles relating to ecologically sustainable development which will need to be prepared in consultation with environmental, development and industry groups, as well as the community.

The Bill contains a more flexible and less time consuming system for the amendment for Development Plan policies than now exists with emphasis being placed on resolution of major issues at the initial stage, through agreement between the Minister and a council on a Statement of Intent.

To ensure that development plans remain relevant and linked to the Planning Strategy, councils are required to carry out periodic reviews of their Development Plans in order to determine their appropriateness and conformity with the Planning Strategy. The first such review must be carried out within three years of the commencement of the Act and thereafter every five years. This should ensure that a coherent and contemporary approach is maintained. The Minister has power under the Bill to prepare plan amendments if a council refuses or neglects to do so on the Minister's request. While Councils have the right to propose amendments to Development Plans in their areas, the final responsibility for these Plans is the Minister's. Nevertheless, we do not intend to interfere in matters of purely local importance.

A new Environment, Resources and Development Court Bill also has been prepared to provide for the creation of a separate Court to deal with both enforcement and appeal matters related to the Development Bill. This Court will also become the relevant Court for matters dealt with under proposed *Heritage* and *Environment Protection* legislation.

The Bill establishes two statutory bodies. The Development Policy Advisory Committee will advise the Minister on any matters relating to planning and development or the design and construction of buildings. The Development Assessment Commission will assess development proposals where appropriate and report on matters relevant to the development of land.

Broadly speaking these bodies replace the Advisory Council on Planning and the South Australian Planning Commission. However, a significant change is that in determining their membership the Minister must invite expressions of interest in appointment from the community.

The legislation was drawn up after extensive consultation and has itself been the subject of further discussion with the community and key groups. Consequently, consultation is an essential part of the legislation with an increased level of public involvement on some applications.

Other major provisions of the Bill to which I draw the attention of the House include:

- Crown development will now be bound by the same policies and standards in the Development Plan as apply to private applicants. Crown development will require an application, and approval by the Minister, unless exempted by the Regulations. The Minister must report to Parliament any approval which is at variance with the Development Plan. New Crown development will be required by the Bill to comply with the Building Rules.
- Land management agreements have been limited to management issues to avoid the use of these agreements to circumvent the Development Plan policies.

- The Development Bill changes the focus of responsibility for ensuring proper standards of building construction from councils to builders and landowners.
- The Bill introduces the concept of Private Certification to the assessment of compliance with the Building Rules. This will particularly benefit developers using standard designs for a large number of buildings.
- Consideration will be given to granting exemptions from application of the Building Rules, as was done by proclamation under Section 5 of the Building Act. Changes in building standards, settlement patterns and the size of farm buildings over the last twenty years mean that the former proclamations cannot simply be re-made.
- In the event of defective building work, changes to the liability provisions will lift some of the heavy burden which has fallen on councils previously, and re-distribute it more equitably on other parties, including the designer, builder and owner.
- An integrated system of enforcement and appeals is now proposed in the Bill and the complementary Environment, Resources and Development Court Bill.
- Third party civil enforcement is made more accessible by the Bill. However, there are safeguards written into the Bill and the Court will have the option of requiring a bond to avoid abuse of the civil enforcement process.
- All policies relating to the identification and alteration to local heritage places will be contained in the Development Plans. The Bill contains specific criteria to be used in the listing of local heritage places in order to provide greater certainty in this area.
- The City of Adelaide will now become subject to the same development legislation as the rest of the State.
- The Bill, together with complementary changes to the Mining Act introduced by the *Statutes and Repeal (Development) Bill,* will streamline the assessment of mining applications and help clarify these procedures. Policies relating to mining, including the provision of buffer areas, will be set out in the statutory Development Plans.

Other complementary legislation being presented at this time includes the Statutes Repeal and Amendment (Development) Bill which repeals in their entirety the Building Act, Planning Act and the City of Adelaide Development Control Act and amends the Coast Protection Act, Local Government Act, Mining Act, National parks and Wildlife Act, Real Property Act and Strata Titles Act. It also provides for a wide range of transitional provisions to allow for a smooth transfer between the repealed Acts and the Development Act.

As part of the introduction of the integrated planning and development system, the Government will undertake an education and information programme for councils, the development industry and the community. In addition, the Local Government Association is proposing to streamline council procedures relating to development applications through its Local Approval Review and through the Local Government Training Authority Process.

A new *Heritage Bill* is also to be introduced. The bill now before the House is dependant on the progress of that legislation.

I referred earlier to the Planning Review which was established by the former Premier. I would like to acknowledge the work of the review which has led to the reforms contained in this legislation. The Review team led by Brian Hayes QC, Professor Stephen Hamnet and Dr Graham Bethune have met their brief of designing a planning system which can take Adelaide and SA into the twenty first century. It is now our responsibility to give legislative form to the results of this comprehensive process of review.

PART 1
PRELIMINARY

Clause 1: Short title

This clause is formal.

Clause 2: Commencement

This clause provides for the commencement of the measure.

Clause 3: Objects

This clause sets out the object of the Act, which is to provide for proper, orderly and efficient planning and development in the State.

Clause 4: Definitions

This clause lists definitions of terms used in the Bill. They are largely derived from the *Planning Act 1982,* but also include definitions derived from other legislation such as the *Building Act 1971*. By virtue of the *Acts Interpretation Act,* these definitions apply, unless otherwise provided, not only to the principal Act, but to all regulations, codes and instruments under the Act.

The clause also carries forward the *Planning Act 1982* provisions which enable monetary penalties for breach of the Act to be potentially greater where the value of the work undertaken is greater. It also provides that penalties can increase where contravention of the Act continues following a conviction.

Clause 5: Interpretation of Development Plans

This clause specifically applies the definitions set out in clause 4 to the Development Plans created under Part 3. The clause also allows the making of definitions by regulation, to apply to Development Plans generally, or to a particular Development Plan. This provision is a direct carry over from Section 42a of the *Planning Act 1982* and has exactly the same consultation procedures as apply under that Act, except insofar as the new provision requires an explanation of the proposed definitions, not just publication of the text, and extends the *Planning Act 1982* submission period from 14 days to 28 days.

The clause also maintains *Planning Act 1982* concept of defining terms by regulation, rather than in each Development Plan, so as to ensure consistency between Development Plans, and to avoid the inherent duplication (and perhaps conflict) involved in defining the same terms in Plans, and in the Regulations themselves for the purposes of the Regulations.

Clause 6: Concept of change in the use of land

This clause is a direct carry-over of Section 4a of the *Planning Act* 1982 (and its companion Section 4a in the *City of Adelaide Development Control Act* 1976). It is unchanged from the *Planning Act* 1982 provision and has three principal roles.

Firstly the provision further defines the concept of "change of use" to include commencement and revival of a land use, whether additional to a previous use or not.

Secondly the provision provides mechanisms to determine what constitutes "discontinuance" of an activity. This is important as the Bill only controls "development" and has no application to continuation of "existing uses". The clause provides for automatic loss of an existing use right after two years, or where a Council or the Commission determines by resolution and notice, that the existing use has been discontinued, after six months. The provision provides for an appeal right against such a resolution, enabling both the question of discontinuance, and the adverse effect components of the resolution, to be tested. Thirdly subclause (6) enables trifling

activities to be disregarded. For a land use change to have substance, it must not be trifling.

Clause 7: Application of Act

The Bill applies throughout the State. This includes all land within its territorial boundaries, including ocean waters off the coastline (by virtue of the definition of "the State" in clause 4). This will mean that, for the first time, buildings erected outside of Council Areas will need to comply with Building Codes (unless excluded by regulation).

The clause also enables the application of the Act to be modified in relation to specified locations or classes of development. Any modification must be by regulation, bringing it within the supervision of Parliament and its disallowance powers.

PART 2
ADMINISTRATION

Clause 8: The Development Policy Advisory Committee

This clause establishes the Development Policy Advisory Committee, comprising people appointed by the Governor from a range of backgrounds. This committee is the successor to the Advisory Committee on Planning under the *Planning Act* 1982, the Building Advisory Committee under the *Building Act 1971,* and the City of Adelaide Planning Commission in its policy-making role. The composition of the committee contains all membership criteria from the Planning Act's Advisory Committee, together with addition of building and community service criteria. The membership is intended to reflect fields of expertise, but is not intended to be representative of particular interest groups. Subclause (11) requires the Minister to seek public expressions of interest in serving on the Committee before making recommendations to the Governor for appointment.

Clause 9: Functions of the Advisory Committee

The prime function of the Committee is to advise the Minister on his or her functions in relation to the Bill. The Clause specifically requires the Committee to take into account the Planning Strategy when performing its functions.

Clause 10: The Development Assessment Commission

This clause establishes the Development Assessment Commission. The Commission is to be the successor to the South Australian Planning Commission, and the City of Adelaide Planning Commission in its development control role. The Bill gives the Commission the same broad functions as is given to these two Commissions. The membership criteria are broadly the same as applies to the South Australian Planning Commission. The clause also contains standard provisions for appointment of members and includes, as with the Advisory Committee, a requirement for the Minister to seek public expressions of interest before making recommendations to the Governor for appointment.

Clause 11: Functions of the State Commission

The Commission is essentially a development control body in its own right or, for some matters, adviser to the Minister on development control. While the Commission is subject to the direction of the Minister in relation to operational matters, it is independent in relation to decision-making on applications.

Clause 12: Interpretation

This clause defines the term "statutory body" used in subdivision 3.

Clause 13: Procedures

This clause contains procedural provisions relating to the two statutory bodies created by the Bill, namely the Advisory Committee and the Commission. It provides procedural mechanisms for matters such as quorum, voting rights, meetings and minutes.

Clause 14: Vacancies or defects in appointment of members

This clause protects acts of the statutory bodies from any defect in the appointment of a member.

Clause 15: Immunity of Members

This clause provides for personal immunity and attaches liability to the Crown.

Clause 16: Committees

The clause allows the Advisory Committee and Commission to establish committees, and provides that they must establish committees as required by regulation. In the first instance it is envisaged committees of the Advisory Committee will be required only for building control, and for City of Adelaide policy matters, reflecting the carry-over role given to the Committee under this scheme. Similarly, it is envisaged a Committee of the Commission will be required only for the City of Adelaide, reflecting the carry-over role of the Commission in relation to the City of Adelaide Planning Commission.

Clause 17: Staff

This clause provides staffing arrangements, based on those applying under the *Planning Act 1982* to the South Australian Planning Commission and Advisory Committee on Planning.

Clause 18: Appointment of authorised officers

This clause enables "authorised officers" to be appointed to carry out administration of the legislation. The clause includes requirements for identity cards and a power to revoke appointments.

Clause 19: Powers of authorised officers to inspect and obtain information

This clause sets out extensive powers for authorised officers to enter land and buildings and carry out inspections for the purposes of the Act. Subclause (2) requires that a warrant be obtained to break into premises, or pull down work (unless urgent action is required).

Clause 20: Delegations

This clause sets out general powers of delegation for the powers and functions vested in the various bodies under the legislation. The provisions are essentially the same as in the *Planning Act 1982*, except that the provision allows sub-delegation in the circumstances set out in subclause (3). It is envisaged that, for example, a general delegation to a committee established under the Act may be further delegated to officers or members of that committee in relation to minor matters.

Subclauses (4) and (5) deal with private interests. Subclause (7) will ensure that any conflict of interest involving a member, officer or employee of a council will be dealt with under the *Local Government Act 1934.* Subclause (8) envisages a *Gazette* notice for some delegations. It is envisaged that the regulations will require a *Gazette* notice of delegations beyond officers or Committees established by or under the primary body.

Clause 21: Annual report

This clause requires the Minister to prepare an annual report on the administration of the Act and table it in Parliament.

PART 3
PLANNING SCHEMES

Clause 22: The Planning Strategy

This clause provides for preparation of a state-wide Planning Strategy for the development of land. As the Strategy is seen as Government policy the clause provides that neither it nor its application are to be amenable to interpretation by a court.

The Strategy will be implemented in a number of non-statutory ways. However one of the principal methods to implement the Planning Strategy will be through development

controls. Accordingly, the Bill makes reference to the Strategy in a number of places, including—

- in relation to definitions of terms
- in relation to the functions of the Advisory Committee
- in relation to the role of a Development Plan
- in relation to preparation of Development Plan amendments by a council
- in relation to the assessment of a Council prepared Development Plan amendment
- in relation to preparation of Development Plan amendments by the Minister
- in relation to reviews of Development Plans
- in relation to decisions by the Governor on major developments.

It is intended that the Planning Strategy will not otherwise apply to decisions under the Act. This is because the intention of the legislation is to enable the Planning Strategy to be government policy, rapidly variable and not written in a legalistic manner. For this reason, there is no rigid procedure laid down for preparation of the Strategy or its amendment. It is anticipated the appropriate level of consultation will vary according to the nature of the Strategy or amendment. Subclauses (4) and (5) establish a process for annual reporting to Parliament on the Strategy, and for consultations to be undertaken within the community regarding its operation and amendment.

Clause 23: Development Plans

This clause provides for the establishment of Development Plans applicable to geographic areas of the State. Subclause (2) provides that only one plan can apply to any particular area so as to prevent potential conflict arising from overlapping plans. (The transitional provisions of the companion Bill carry over the Development Plan under the *Planning Act 1982,* and the City of Adelaide Plan under the *City of Adelaide Development Control Act 1976*). It is envisaged that, in the first instance, there will be a single plan for each council area, comprising its portion of the *Planning Act 1982* Development Plan, together with the relevant regional provisions.

The clause provides that Plans must promote the objectives of the Planning Strategy and may adopt, by reference, Codes or Plans under other legislation.

Subclause (4) recognises that the Development Plan may list local heritage items. This will complement the State list to be established under companion Heritage legislation.

Clause 24: Council or Minister may amend a Development Plan

This clause is very similar to Section 41 of the *Planning Act* 1982 and establishes a process for amendment to Development Plans in much the same fashion as the Supplementary Development Plan (SDP) process under that Act. The term "Supplementary Development Plan" is abandoned as many *Planning Act* 1982 users understood an SDP to be a document in its own right. As with the *Planning Act 1982,* a Plan amendment may only be prepared by a council or the Minister.

Clause 25: Amendments by a council

This clause sets out the process for amendments prepared by a council. The process starts with a "Statement of Intent". The regulations will specify the nature of this statement. Following agreement between the Minister and a council (generally with Advisory Committee advice), the Plan amendment itself may then be prepared. Preparation of this document will require professional advice.

Subclause (3) requires the council to take into account the Planning Strategy, and adjacent plans when preparing the Plan Amendment Report following agreement on the Statement of Intent, and to provide an explanation and a summary of the investigations leading to the Plan. The clause also requires consultation with government agencies and provides a Ministerial approval process prior to public exhibition. This is a direct "copy" of the current *Planning Act 1982* requirement. The prime criterion for approval under this provision will be whether the amendment is consistent with the Statement of Intent and the Planning Strategy, and whether it complements adjoining plans. Subclause (11) establishes the public consultation stage, the details of which are specified by regulation. It is envisaged that the regulations will establish the same process as is required in the *Planning Act 1982,* with two months exhibition, inspection of submissions, and a public hearing. Following the public process, a report is forwarded to the Minister setting out the public response and details of suggested change. On receipt, the Minister may seek a report from the Advisory Committee, and must do so where substantial public opposition or change is evident. The Minister may then approve the amendment and submit it to the Governor for authorisation.

Clause 26: Amendments by the Minister

This clause sets out the process for preparation of amendments to Plans by the Minister. It is essentially the same as for a council plan, except that the Minister must consult affected councils (unless the Plan is to be given interim effect). It is envisaged that the regulations will contain a new provision providing an ability for the Minister to appoint a committee other than the Advisory Committee to conduct the public process on an amendment by the Minister. This will enable a regional grouping of councils, for example, to hear submissions on a relevant Plan amendment. The Minister will seek Advisory Committee advice following the public consultation stage.

Clause 27: Operation of an amendment and Parliamentary scrutiny

The process for Parliamentary approval for both Ministerial and council amendments is different from the *Planning Act 1982,* as the Bill envisages it will follow rather than precede authorisation by the Governor. An amendment is referred to the relevant Parliamentary Committee and may be subject to disallowance by the Houses of Parliament. This will speed up the process while relating the Parliamentary review process.

Clause 28: Interim development control

This clause replicates Section 43 of the *Planning Act 1982.* It enables a Plan amendment to be given interim effect at the same time as, or following, public display. The rationale behind the provision is that amendments introducing tighter controls can be debated publicly, without prior notice being given that new controls are envisaged. This provision is considered necessary as the Bill maintains the concept of certainty for applicants by not allowing the rules to be changed after an application is lodged. Hence policy in a plan amendment is not relevant to applications lodged during the amendment process, unless this clause is brought into operation. As use of this clause is envisaged to be rare, and only in the interest of orderly development, the provision retains the *Planning Act 1982* concept of it only being brought into effect by the Governor. The clause also provides that prior council consultation on Ministerial amendments is not required where the Minister gives an amendment interim effect. This is to protect confidentiality prior to interim effect.

Clause 29: Certain amendments may be made without formal procedures

This includes elements of Section 42 of the *Planning Act 1982* and provides a short-cut amendment process to fix errors, or to make a change of form. The Minister will also be able to amend

a Plan in order to include, or delete, items relating to State Heritage. Certain plans, policies and controls established under other Acts and prescribed by the regulations will also fall within the operation of this clause. In this regard, it is envisaged that development controls currently under a range of other legislation will, over time be incorporated into the Development Bill, progressively implementing the one-stop-shop concept for controls. The control provisions of the Bill enable the regulations to create "referrals" so that the development control authority is advised of policies of other government agencies relevant to the control. This clause supports this by enabling statutory policies under other legislation to be incorporated into Development Plans, thus enabling removal from the other legislation.

Clause 30: Review of plans by council

This clause is intended to ensure the continued relevance of an existing Development Plan by requiring periodic reviews by councils. The review process will ensure that Councils at least consider whether a Plan is still up-to-date. The Minister will be able to initiate a Plan amendment where a council fails to review as required under this clause.

Clause 31: Copies of plans to be made available to the public

This clause requires the Minister to ensure that copies of all Development Plans are available for inspection and purchase, and requires a council to make its Plan or portion of a Plan available for inspection or purchase. The clause also carries over the *Planning Act 1982* provisions enabling the Minister to consolidate and publish Development Plans.

PART 4

DEVELOPMENT CONTROL

Clause 32: Development must be approved under this Act

This clause establishes the general development control power of the Bill.

Clause 33: Matters against which a development must be assessed

This clause sets out the matters which will be considered for an approval under the legislation. The clause carries over decision criteria from the legislation now amalgamated into the Development Bill. Paragraph *(f)* of subclause (1) allows other matters to be taken into account by regulation, anticipating controls from other legislation not yet amalgamated into the Bill.

This clause also envisages that an applicant may apply for progressive, or "staged" assessment, with the provision of greater levels of detail in plans as certainty is obtained. While the clause allows for staged assessment and decision, an "approval" will only be issued following assessment under all relevant provisions. Subclause (3) allows specified matters to be deferred until subsequent stages in decision-making.

Clause 34: Determination of relevant authority

This clause fixes the identity of the assessment authority, being either the relevant council, or the Commission. The role of the Commission is the same as that for the SA Planning Commission under the *Planning Act 1982*, with its principal role including decision-making for applications for development approval of the following types:

- development by a council;
- matters specified by regulation;
- development out of council areas.

It is envisaged the matters prescribed for the Commission by regulation will be based on the current *Planning Act 1982* power-sharing arrangements.

Subclause (2) recognises that the Commission will usually have little interest in building matters and, indeed, less expertise than the council. The provision therefore enables the Commission to delegate matters traditionally covered by the "Building Act" to the relevant council, or to seek professional certification under the Bill.

Clause 35: Special provisions relating to assessment against a Development Plan

This clause refers to "complying" and "non-complying" development. This replaces the "permitted" and "prohibited" concepts under the *Planning Act 1982,* and the transitional arrangements carry forward the State Development Plan and City Plan "permitted" and "prohibited" lists as complying and non-complying development. The term permitted is abandoned for three reasons. Firstly, incorporation of building control in the legislation means that approval is required under the Bill for most development notwithstanding any former "permitted" status under the *Planning Act 1982*. Secondly, there is no clear process under the *Planning Act 1982* for gaining an "approval" for "permitted" development. If development is permitted, no approval is needed, hence there is no certainty for the developer that "approval" is obtained. The approval required will give this certainty. Finally, issue of an approval under the Bill for complying development will protect a developer from changes in planning policy between the approval and commencement of work.

The term "prohibited" is abandoned primarily because it is misleading. Notwithstanding the term "prohibited", nothing is in fact prohibited under the existing planning legislation, which provides procedures for gaining approval where clear merit is demonstrated.

Subclause (1) also provides for the listing of complying development in both the Development Plan and the Regulations, as activities excluded from the definition of "development" under the *Planning Act 1982* are "building work" under the *Building Act 1971,* hence will be "development", and will need an application to be lodged and approved under this Bill. Listing as "complying" in the regulations retains the exemption from "planning" control.

Clause 36: Special provisions relating to assessment against the Building Rules

This clause is similar in many ways to the preceding clause, envisaging that development may be listed as "complying" and therefore effectively exempt from building control. This could apply to low fences, installation of air conditioners and construction of small pergolas (for example). Subclause (2) requires adherence to the Building Rules. However, various powers of modification are set out in the provision. Subclause (3) recognises the need to allow resolution to be achieved between building control and heritage objectives and provides that heritage will prevail over technical building matters. Other safety procedures will be adopted consistent with heritage protection.

Clause 37: Consultation with other authorities or agencies

This clause establishes a referral system for applications as specified in the regulations. Instead of listing each particular referral, as is the case under the *Planning Act 1982,* the clause sets a general referral power, providing that the referral can have the status of general advice, a mandatory direction, or a concurrence where both the control authority and referral body must agree on a decision. Subclause (2) gives referral bodies the ability to seek information where necessary. The regulations will list the types of application, the referral body, a time limit for response, and the status of the referral report. In the first instance they will be the current *Planning Act 1982* referrals, including heritage, air pollution and coastal development for example, but can readily be extended to pick up control

authorities from other legislation. This list can also be readily reduced as referral control policies from other legislation are incorporated into Development Plans. This clause will enable referral to a body such as the proposed Environment Protection Authority on matters such as air and water quality.

Clause 38: Public notice and consultation

This clause sets out the role of third parties in relation to development control decisions. The clause does restrict the role of third parties to assessment in relation to the Development Plan, and not the more technical construction requirements relating to buildings and subdivisions.

The clause sets out 3 categories of development, being those totally exempt from public consultation, those subject to neighbour notification and comment, and those given full public notice and provided with third party appeal rights. Where it is not clear into which category a development falls, the clause provides for its classification as a Category 3 development.

The categories will initially be fixed in the Regulations. However to ensure the categorisation meets local conditions, the clause enables the regulations to be overridden by specific provisions set out in the Development Plans in respect of Categories 1 and 2. Various rights of representation and comment are provided and appeal rights will apply in relation to Category 3 developments.

Clause 39: Application and provision of information

This clause provides a standard application process and provides for application fees. The regulations will set the fee structure, based on a higher application fee for the types of application likely to require greater assessment under the Bill. The regulations will provide for application forms, requirements as to lodgement and requirements as to the preparation of accompanying plans and drawings. It is envisaged lodgement will be at the office of the relevant council, other than for land division, where central lodgement with the Commission will be retained.

Subclause (2) enables the relevant authority to request further information in relation to an application. The clause also provides for a Statement of Effect in relation to non-complying development. The requirements for this document will be set out in the regulations. Subclause (4) enables a relevant authority to refuse to deal with an application for non-complying development, in the same manner as applies for "prohibited" development under the *Planning Act 1982*. New provisions enable application to be made to vary a previous approval as an application for a new authorisation. As a new application, the referral and public consultation procedures will apply to the extent of the variation, rather than the whole of the previously approved development.

Clause 40: Determination of application

The outcome of an application will be notified under this provision. Any authorisation will remain operative for a period prescribed by the regulations.

Clause 41: Time within which decision must be made

This clause enables time limits for decision-making, and provides a process for an applicant to remedy a failure to make a decision. The process is based on the current provisions of Section 52 of the *Planning Act 1982*. Costs will be awarded for certain cases.

Clause 42: Conditions

This clause provides for the imposition of conditions on a development approval and provides that they bind successive beneficiaries of the consent. This clause also envisages the potential for a condition to be imposed by regulation (for example it is envisaged a council will be able to declare an underground mains area for power supply, and require underground wiring by regulation). Subclause (3) provides a general power to authorise management conditions. This could be used to require building controls in matters such as maintenance of fire safety features.

Clause 43: Cancellation by a relevant authority

This clause provides a general power for assessment authorities to cancel development approvals on application by the beneficiary of the approval. While its use will be rare, it is of benefit where a new proposal can only be approved if a previous approval is no longer to be exercised.

Clause 44: General offences

This clause establishes various offences for the purposes of the legislation.

Clause 45: Offences relating specifically to building work

This clause creates certain offences relating to building work.

Clause 46: Environmental Impact Statements

This clause (together with the following two clauses) establish a process for assessment of major development. The clause is based on Section 49 of the *Planning Act 1982* (and its companion Section 26b in the *City of Adelaide Development Control Act 1976*) and enables the Minister to call for an Environmental Impact Statement. The process is the same as is applied under the *Planning Act 1982* except that reference is specifically made to the Assessment Report of the Minister which is prepared in response to the proponent's EIS. The clause also includes reference to guidelines setting out the matters an EIS is expected to include. The process comprises preparation of a draft report, public display of that report, preparation of a response to public comment, and then assessment by the Minister of the documents.

The clause also includes reference to projects in relation to land, as well as development under the Act, as some activities (for example, land drainage, clearance of vegetation, excavation) are not development but can have major environmental consequences. In that case, the EIS would serve as a reference for decision-making under other legislation. The clause also contains a mechanism to refer an EIS to various prescribed bodies, such as the proposed Environment Protection Authority.

Clause 47: Amendments of Environmental Impact Statement

This clause provides a mechanism for update of an EIS in response to monitoring or new data. It provides for public exhibition of any major changes, and amendment to the Assessment Report.

Clause 48: Governor to give Decision on Development

This Clause allows the Governor to "call in" certain developments, being any development which is the subject of an EIS, or any development within the ambit of a declaration under subclause (2). The provision is modelled on the existing provisions of Section 50 of the *Planning Act 1982*. The clause also maintains the *Planning Act 1982* provisions which provide that the normal control provisions of the Bill do not apply where the clause is operative, and lapses current applications and approvals where a development has not yet commenced. The Governor will not approve a development unless an EIS and Assessment has been completed. This enables an early "no" decision without having to go through the potentially expensive EIS process.

The Governor's decision will effectively be final. The clause also enables conditions to be varied in response to monitoring programmes established by an EIS or Assessment Report. It also enables conditions to be varied on application by the person who has the benefit of the relevant condition. The Governor will be able to delegate the power of decision to the Development

Assessment Commission. This provision can readily be used when the Government of the day wishes to leave decision-making to an independent expert body. The Commission may further delegate. This will be used principally to delegate Building Code assessment to a council under the Act.

Clause 49: Crown development

The Bill seeks to bind development proposals by Crown agencies to similar criteria as development by private citizens. It is proposed that applications be judged against the same Development Plans and codes as apply to private applications. The Bill also ensures that decisions are made based on the advice of the same authorities that control private development, namely councils, and the Development Assessment Commission. However, decisions are to be made by the Minister responsible for the Act. Accordingly, the Bill provides for applications to be made to the Commission, which then, following receipt of comments from the relevant council, advises the Minister. The Minister may then approve or refuse the development. Where the Minister approves a development about which a council expresses opposition, or which is considered by the Commission to be seriously at variance with a Development Plan or with a standard or Code prescribed by regulation, the Minister must report to Parliament on the approval.

Clause 50: Open Space Contributions

This clause carries over the long standing concept of contributions associated with land division. The clause reflects provisions of the *Real Property Act 1886,* with some minor amendments.

Subclause (1) refers to larger land divisions, and enables the council to require up to 12.5% of the land to be reserved for open space, or a cash contribution in lieu, or a combination of both. Where there is no council, the power is exercised by the Commission. This provision is the same as the 1982 Real Property Act requirement, with the exception that the land must now be provided in a location designated as open space in the Development Plan (where any such designation exists over the land being divided). Subclause (2) refers to smaller scale land division proposals and to strata title schemes. As with the 1982 Real Property Act provisions, the council is not given the right to take land, as the reserve would be too small to be useful. Instead, the cash is paid into a central fund administered by the Minister for use primarily for regional scale open space. However, like the 1982 Real Property Act, the provision allows for agreements for certain land allocations.

This provision applies equally to strata title division, which for the first time will be able, by agreement of all parties, to provide public open space in lieu of cash. The provision allows for the exemption by regulation of "existing strata schemes" to be maintained. (This will apply in respect of strata division of existing buildings erected prior to the commencement of strata title legislation in 1968.)

Subclause (4) provides that a decision to take land and/or money must be consistent with any development authorisation under the Act. Subclause (5) sets the rate of cash contribution. (This is a direct carry-over of the 1982 Real Property Act provision.) Subclause (6) provides for update of the cash contribution in accordance with movements in land values. Subclause (7) sets the amount of cash payable where a combination of land and money is to be paid.

The clause also provides an aid to calculation and requires the smallest allotment to be counted first. This means a division of a large allotment into one large and one small, pays one contribution. The additional allotment is the smallest. (The alternative of the additional allotment being the largest would avoid payment of a contribution.)

Subclause (10) requires a council to pay monies into an open space trust fund, and the State Authority to pay the money into the Planning and Development Fund. Subclause (11) enables prior contributions to be taken into account for staged land division.

Clause 51: Certificate in respect of the division of land

This clause provides a mechanism for certification to the Registrar-General that conditions imposed on a development approval for land division have been met, thus enabling issue of new Certificates of Title.

Both the *Real Property Act* 1886 and the *Strata Titles Act 1988* presently provide for two certificates, one for State interests issued by the S.A. Planning Commission, and one for local interests by the council. This creates difficulties as the two certificates occasionally relate to different plans, and from time to time overlap with conflicting requirements. The concept in the Bill is for issue of a single certificate, which the applicant will then deposit with the Registrar-General at the time of seeking new titles.

The Commission is chosen to issue the Certificate for land division, rather than the council, for three reasons:

- Many of the requirements relate to State agency interests, particularly the Engineering and Water Supply Department and Electricity Trust
- The Government already creates a computer image of the division plan on initial lodgement and distributes this in electronic form to service agencies. Providing that the final plan is endorsed by the Commission enables a single and ready update of the final division plan on the electronic data base, for transmission to agencies for detailed service network planning
- The data recording and service co-ordination requirements associated with land division are complex and the Commission will be better able to manage an effective centralised system than the councils (each with a slightly different process, and particularly councils where there is little land division activity).

A centralised system will help the introduction of more sophisticated approval processes.

The detailed procedures for issue of certificates will be set out in the regulations, giving councils specific responsibility for various construction matters.

Clause 52: Saving provisions

This clause provides general "protection" provisions for developments against changes in the Development Plan or Building Regulations. Subclause (1) provides that approvals already granted under the Act may be implemented notwithstanding changes in policy expressed in the Plan or Building Regulations. Subclause (2) provides that an activity lawfully commenced may be completed within three years notwithstanding an amendment to the Act to make the activity "development".

Clause 53: Law governing proceedings under this Act

These provisions are similar to Section 57 of the *Planning Act 1982* (and its companion section 42 of the *City of Adelaide Development Control Act 1976).*

Clause 54: Urgent building work

This clause recognises the occasional need for emergency building work and provides it is not an offence provided approval is subsequently applied for. Where approval is refused, the person who undertook the work must reinstate the land or

building affected by the emergency work (as far as practicable) to its original state or condition.

Clause 55: Removal of work if development not substantially completed

This clause will allow a relevant authority to apply to the Court for the removal of work that has not been substantially completed within the prescribed period.

Clause 56: Completion of work

This clause will allow a relevant authority to require that development be completed in certain circumstances.

PART 6

LAND MANAGEMENT AGREEMENTS

Clause 57: Land management agreements

This clause is based on Section 61 of the *Planning Act 1982* relating to Land Management Agreements.

As with the *Planning Act 1982,* subclauses (1) and (2) provide agreements can be entered into by either the relevant council or the Minister. However the term "development" does not appear in these subclauses in order to restrict the agreements to "management" issues. This clause also provides for the registration of agreements. The provisions differ from the *Planning Act 1982* as an agreement must be registered to be effective. Reference is also made to the scheme for Transferable Floor Areas.

It is envisaged that the transfer of development potential under the legislation will be incorporated in an agreement registered under this provision. This will result in interested parties being able to ascertain the exact status of the land under this scheme. The clause also incorporates the *Planning Act 1982* provisions relating to remission of rates and taxes.

PART 7

REGULATION OF BUILDING WORK

Clause 58: Interpretation

This clause reflects the fact that this Part gives councils primary responsibility for approving building work.

Clause 59: Notifications during building work

This provision enables regulations to require notification to the council of the progress of building works. A council will be able to require the builder (or other interested party) to furnish a written statement that the building work has been carried out in conformity with the Act.

Clause 60: Work that affects stability

The clause is taken from the *Building Act 1971* and requires owners of land to be informed of building works which may affect the stability of that neighbouring land. It also establishes mechanisms for cost sharing where precautionary works are required during construction stages.

Clause 61: Construction of party walls

The clause is taken from the *Building Act 1971* and provides mechanisms setting out the rights of parties in relation to party walls. The clause sets out the process for consultation between the respective parties and provides that a party wall cannot be built without the agreement of the adjoining owner or owners.

Clause 62: Rights of building owner

This clause provides rights to maintain party walls, subject to approvals under the Act for building works. The clause provides either party may keep a party wall in good repair, and provides for notices and for appeals where disputes arise over whether works are necessary.

Clause 63: Power of entry

This clause provides mechanisms to give effect to the preceding clauses by giving adjacent owners the right to enter land. The clause provides for prior notice of entry and, if necessary, for forced entry (with police assistance).

Clause 64: Appropriation of expense

This clause provides a process for apportioning costs of party wall works and for resolution of disputes over the cost.

Clause 65: Buildings owned or occupies by the Crown

This clause provides that the classification and certificates of occupancy schemes do not bind the Crown.

Clause 66: Classification of buildings

This clause allows a council to classify buildings and thus determine which provisions of the Building Code apply. (The Building Code sets out "classification codes" according to the purpose for which a building will be used, and applies specific building requirements according to that classification). Subclause (1) provides that all buildings erected after 1974 must have a classification as the *Building Act 1971* had a date of operation of 1 January 1974. Buildings erected prior to 1974 effectively have "existing use" rights. A building may not be used except in accordance with its classification.

Clause 67: Certificates of occupancy

This clause provides for the issue of Certificates of Occupancy after completion of building work. The certificate is a statement that the building is suitable for occupation, but sub-clause (7) makes it clear that it does not constitute a guarantee that the building complies with the Building Rules. A building must not be occupied unless a Certificate of Occupancy has been issued. Subclause (11) allows for appeals. Subclause (12) enables occupancy of part of a building, recognising that part may be suitable for occupation while other parts are still under construction.

Clause 68: Temporary occupation

This clause provides for temporary occupation without a certificate. This could be used to approve the use of site offices on a building site, or the erection of a large marquee for short term entertainment purposes.

Clause 69: Emergency orders

This clause allows certain form of "emergency orders" to be issued by authorised officers who hold prescribed qualifications.

Clause 70: Buildings owned or occupies by the Crown

This provision exempts the Crown from the provisions of the Bill enabling councils to regulate fire safety issues.

Clause 71: Fire safety

This clause provides a power for councils or other authorities to ensure buildings maintain appropriate fire safety. In particular, notices may require the performance of necessary remedial work. Subclause (4) envisages that the owner of a building with a fire hazard will prepare a programme of work to address the hazard. Other provisions give powers to enforce implementation of the programme, and appeals. The provision also ensures that fire safety programmes cannot proceed in a manner inconsistent with heritage protection.

Clause 72: Negation of joint and several liability in certain cases

This clause provides that responsibility for defective building work will be apportioned between the parties in default according to the extent to which their default contributes to any damage or loss.

Clause 73: Limitation on time when action may be taken

This clause restricts the time within which an action for damages for economic loss or rectification costs arising from defective building work to the period of 10 years.

PART 7

REGULATION OF ADVERTISEMENTS

Clause 74: Advertisements

This clause is similar to Section 55 of the *Planning Act 1982* (and its companion Section 39e of the *City of Adelaide*

Development Control Act 1976). The provisions provide that either the council for an area, or the Commission, can order removal of outdoor advertisements considered unsightly. (The provision cuts across the "existing use" rights given to other forms of land use and is essentially a management, as opposed to development, control.) The clause can be exercised notwithstanding that the advertisement has received development approval (on the basis that outdoor advertisements can be "run down" over time). The provision provides for appeal rights.

PART 8

SPECIAL PROVISIONS RELATING TO MINING

Clause 75: Applications for mining production tenements to be referred in certain cases to the Minister

This clause, together with the next clause, carries over the provisions of Sections 59 and 60 of the *Planning Act 1982*. These clauses, together with the definitions of "development" and "mining operations", operate to exclude mining tenements, and existing "private mines" from development approval. The role of the clause is to provide a mechanism for the Minister to provide planning and environmental advice to the Authority (the Minister of Mineral Resources). The provisions are designed to work in conjunction with relevant assessment provisions under the *Mining Act* especially in relation to notification, and consultation with adjoining owners and members of the public. Subclause (4) provides that either the Minister or Authority may require an environmental impact statement.

Clause 76: This Act not to affect operations carried on in pursuance of Mining Acts except as provided in this Part

This clause provides that only this Part applies to operations under the Mining Acts. Subclauses (2) and (3) offer the same protection for operational private mines, but have the effect of making the development approval provisions apply where a mine is abandoned for twelve months. Subclause (4) enables the regulations to apply Building Code provisions to buildings on mining sites.

PART 9

ACQUISITION OF LAND

Clause 77: Purchase of land by agreement

This clause enables voluntary acquisition of land.

Clause 78: Compulsory acquisition of land

This clause enables compulsory acquisition where necessary to implement the Development Plan.

PART 10

THE FUND

Clause 79: Continuance of the Fund

This clause continues the Planning and Development Fund first established under the *Planning and Development Act 1966* and continued under the *Planning Act 1982*. The terms of the provision are modified from the *Planning Act 1982* by deletion of reference to "development schemes" under Section 63 of the *Planning Act 1982* (as this provision is not carried forward into the Development Bill).

Clause 80: Borrowing

This is a general power carried over from the *Planning Act 1982*.

Clause 81: Application of the Fund

This provision is a carried over from the general provisions of the *Planning Act 1982*. Paragraph *(h)* is amended from a general reference to "public recreation facilities", to the more specific "provision and development of public land for conservation and recreation".

Clause 82: Accounts and audit

This clause provides for proper account keeping in relation to the Planning and Development Fund.

PART 11

ENFORCEMENTS, DISPUTES AND APPEALS

Clause 83: Interpretation—Breach of Act

This clause sets out the matters which constitute a breach of the Act for civil enforcement proceedings.

Clause 84: Enforcement notices

This clause enables a relevant authority to direct that a contravention of the Act be remedied.

Clause 85: Applications to the Court

This clause provides a general civil enforcement power to the Court. The clause allows any person to commence an action. However, the Court may require that a bond be paid by an applicant in appropriate cases. Exemplary damages may be awarded against a respondent in certain circumstances. Otherwise, the provisions are similar to those that apply under the existing *Planning Act 1982*.

DIVISION 2—DISPUTES AND APPEALS

Clause 86: General right to apply to Court

Subclause (1) establishes appeal rights to the Environment, Resources and Development Court for applicants aggrieved by decisions under the Act, and for other parties as stated. Subclause (2) states that this general provision is augmented by the establishment of specific appeal rights and provides that the general provision is overridden by specific provisions which remove appeal rights. An appeal must generally be commenced within two months from the decision to which an appeal relates.

The clause also provides for the referral of an appeal relating to a building matter, to a commissioner under the following clause. Other disputes are referred to a compulsory conference.

Clause 87: Building referees

This clause provides for the determination of a building dispute between an applicant and a development assessment authority to be made by a Commissioner who is specifically empowered to act as a building referee.

PART 12

PRIVATE CERTIFICATION

Clause 88: Preliminary

This clause, together with the other clauses in this Part, allow for "private certification" of the duties imposed on the Commission or council under the Act. The effect of these clauses is to enable the private certifier to undertake part or all of the application assessment function, to the extent prescribed by the regulations.

This particular provision establishes that the certified decision is in effect a decision of the "normal" body and states that no liability for that decision attaches to the "normal" body. It should be noted that the private certifier will assess the application and, if appropriate, grant a consent, but the final approval for development to be undertaken will be issued by the relevant authority. This enables the authority to ensure consistency in respect of the Development Plan and Building Rules.

Clause 89: When may a private certifier be used?

This clause provides that any person may engage a private certifier.

Clause 90: Who may act as a private certifier?

This clause provides that private certifiers must hold qualifications fixed in the regulations.

Clause 91: Circumstances in which private certifier may not act

This clause sets out general provisions to prevent a conflict of interest.

Clause 92: Authority to be Advised of certain matters

This clause requires a certifier to keep the relevant authority informed of engagement and decisions. It also ensures that the certifier has suitable professional indemnity insurance.

Clause 93: *Referrals*

This clause enables a certifier to refer any matter to the relevant authority for it to exercise the functions which the certifier was to perform. Such referral does not have to occur with the consent of the client.

Clause 94: Referrals to other private certifiers

This clause enables a certifier to refer a matter to another certifier with consent of all parties and the Minister.

Clause 95: Removal, etc., of private certifier

This clause prevents an applicant from removing a certifier. However, where there is legitimate cause for complaint, the Minister may consent to removal and an alternative arrangement.

Clause 96: Duties of private certifiers

This clause instructs certifiers to act in the public interest, and not act in any manner contrary to the objects of the Act. The clause provides for penalties against both a certifier and person offering an inducement to breach the Act. Subclause (3) enables a code of conduct to be established.

Clause 97: Appeals

This clause provides that the normal appeal rights do not apply against a private certifier.

PART 13

MISCELLANEOUS

Clause 98: Exemption from certain action

This effectively provides that public bodies and officials may only be held liable for their actions during the assessment and approval processes, and not thereafter.

Clause 99: Insurance requirements

This clause provides for mandatory insurance in appropriate cases.

Clause 100: Professional advice to be obtained in relation to certain matters

This clause provides for the use of professional advisers in certain circumstances. The Minister may give full or conditional recognition to professional advisers required under various provisions of the Act.

Clause 101: Confidential information

This clause seeks to ensure that persons involved in administration of the Act do not misuse information obtained by virtue of the Act.

Clause 102: False or misleading information

This clause will make it an offence to provide false or misleading information for the purposes of the Act.

Clause 103: Accreditation of building products, etc.

This clause enables accreditation of building products. This will simplify and accelerate the assessment of plans against the Building Rules.

Clause 104: General provisions relating to offences

Certain provisions relate to offences by bodies corporate. Subclause (4) provides that offences will be heard in the criminal jurisdiction of the proposed Court. Subclause (5) sets time limit for matters to be pursued as breaches of the Act.

Clause 105: Order to rectify breach

This clause allows the Court, in its criminal jurisdiction, to make orders to rectify breaches of the Act (in a manner similar to that available in its Civil jurisdiction). It avoids the need for one matter to be heard by the Court in two jurisdictions.

Clause 106: Charges on land

This clause sets out a scheme for securing a charge on land created under the Act.

Clause 107: Regulations

This clause contains general regulation-making powers to supplement the specific head powers provided throughout the Bill and in the Schedule. The Bill provides that "codes" can be adopted in the regulations (in parallel with equivalent provisions dealing with adoption of Codes in the Development Plan). The clause also provides that regulations will be submitted to the Environment, Resources and Development Committee of Parliament for consideration rather than the Legislative Review Committee. (This ensures that one Committee considers all Development Bill matters, including Development Plan amendments and regulations.)

THE SCHEDULE

This schedule provides specific regulation making powers.

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

ENVIRONMENT, RESOURCES AND DEVELOPMENT COURT BILL

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

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

This Bill complements the *Development Bill*.

A major cause of concern with the current range of development legislation in this State is the multiplicity of Court procedures for disputes and enforcement. Disputes can be dealt with by the Planning Appeal Tribunal, City of Adelaide Appeal Tribunal, Building Referees, District Court, Magistrates Court, Supreme Court, or a range of special purpose Courts. In relation to environmental protection matters, disputes are dealt with by various bodies such as the Water Resources and Clean Air Appeal Tribunals, the Planning Appeal Tribunal and the District Court. This fragmentation has resulted in duplication, confusion and unnecessary cost.

The Planning Review, in its final report on a new planning system presented to the Government in June of last year, proposed the establishment of a single development Court to handle all disputes and enforcements relating to the development and management of land.

The June and November 1992 drafts of the Development Bill, which were released for public comment, proposed that this new court be established as a division of the District Court. Submissions on the November draft of the Development Bill from a wide range of organisations supported the proposed single court but were opposed to it being made a division of the District Court. Concern was expressed about the potential cost of court proceedings, the role of commissioners and a perceived loss of informality.

For these reasons, this Bill establishes a separate Environment, Resources and Development Court. The Court will comprise the District Court Judges, magistrates and commissioners specifically appointed to the Court. The commissioners will include planning and environmental experts and people with building expertise to handle disputes in relation to the Building Code.

It will hear disputes against decisons under the proposed controls and will have a full range of enforcement powers.

One of the major aims of the Court is to retain informality, with hearings based on the merits of the case, not legal technicalities. The Bill contains a number of provisions to reinforce this objective.

The new Court is envisaged as the primary forum for all matters involving the development and management of land. Its jurisdiction is expected to be extended by complementary legislation, particularly, the proposed Environment Protection and Heritage Bills. Appeals from the Court will be to the Supreme Court.

The provisions of the Bill are as follows:

PART 1

PRELIMINARY

Clause 1: Short title

This clause sets out the short title of the measure.

Clause 2: Commencement

This clause provides for the commencement of the measure.

Clause 3: Interpretation

This clause sets out various definitions required for the purposes of the measure. In particular, a "**relevant Act**" is defined as an Act which confers jurisdiction on the new Court, or which creates an offence in respect of which jurisdiction is conferred.

PART 2

THE ENVIRONMENT, RESOURCES AND DEVELOPMENT COURT

DIVISION 1— ESTABLISHMENT OF COURT

Clause 4: Establishment of Court

This clause provides for a new Court, to be called the *Environment, Resources and Development Court.*

Clause 5: Court is Court of record

The Court is to be a Court of record.

Clause 6: Seal

This clause provides for the seal of the Court.

DIVISION 2— JURISDICTION OF THE COURT

Clause 7: Jurisdiction

This clause relates to the jurisdiction of the Court. The Court will, basically, obtain jurisdiction in two ways, being either by an Act (a "**relevant Act**") conferring jurisdiction on the Court, or by the Governor declaring that certain offences will be within the jurisdiction of the Court (just as "industrial offences" are heard before the Industrial Court). The Court will deal with offences in a summary way and, accordingly, a provision will ensure that the Court cannot impose a penalty for an indictable offence beyond the limits set for summary offences under the *Summary Procedure Act 1921.*

PART 3

COMPOSITION OF THE COURT

DIVISION 1— MEMBERS OF THE COURT

Clause 8: Judges of the Court

A Judge of the District Court is to be specifically appointed to the new Court as its presiding member. Other Judges of the District Court may be appointed as judges of the new Court.

Clause 9: Magistrates

Any magistrate holding office under the *Magistrates Act 1985* may be appointed as a member of the Court.

Clause 10: Commissioners

This clause provides for the appointment of commissioners of the Court. A person will need to have knowledge of, and experience in, a presented field of expertise to be eligible for appointment to the Court.

Clause 11: Masters

Any Master holding office under the *District Court Act 1991* may be appointed as a Master of the Court.

Clause 12: Saving provision

This clause protects acts and proceedings of the Court in the event of a defect in the appointment of a member of the Court.

Clause 13: Personal or pecuniary interest to disqualify member of Court

A member of the Court who has an interest in a matter before the Court will be disqualified from participating in the hearing of the matter.

DIVISION 2—COURTS ADMINISTRATIVE AND ANCILLARY STAFF

Clause 14: Courts administrative and ancillary staff

The Court will have various administrative and ancillary staff, including a Registrar and an Assistant Registrar. A person will be able to hold office as a member of the Court's staff and perform other duties in the Public Service of the State.

PART 4

CONSTITUTION OF THE COURT

Clause 15: Arrangement of business of the Court

This clause sets out the manner in which the business of the Court will be arranged. A Full Bench will be constituted, if appropriate, in cases of special or significant importance. Otherwise, the Court will be constituted of a Judge, magistrate or commissioner, or of two or more commissioners. Masters and registrars will be able to act in certain limited circumstances. The operation of the provision will be subject to any relevant Act, the rules of the Court, and, as appropriate, the determinations of the Presiding Member. Subclause (14) requires that the Court be constituted of a Judge or magistrate where the Court is to try a charge for an offence.

Clause 16: Conferences

This clause is "modelled" on section 27 of the *Planning Act 1982*. It is envisaged that a relevant Act, or the rules, will provide that certain proceedings before the Court must at first instance be referred to a conference presided over by a member of the Court appointed to assist the parties to explore any possible means to settle the proceedings by agreement. A conference will normally be held in private. Anything said or done in the course of the conference is inadmissible in subsequent proceedings before the Court (except by the consent of all parties).

PART 5

PARTIES AND SITTINGS

Clause 17: Parties

The Court will be able to join other persons as parties to proceedings. The Court will be able to dismiss frivolous or vexatious proceedings or proceedings instituted for the purpose of delay or obstruction. A Minister may intervene in proceedings that involve a question of public importance. A party will be able to appear personally or by representative.

Clause 18: Time and place of sittings

The Court will be able to sit at any time and at any place. Registries will be established at places determined by the Governor.

Clause 19: Adjournment from time to time and place to place

The Court will be able to adjourn or transfer proceedings at its discretion.

Clause 20: Hearing in public

This clause provides that, as a general rule, proceedings before the Court must be heard in public. Certain exceptions will apply.

PART 6
EXERCISE OF JURISDICTION
DIVISION 1— PRINCIPLES GOVERNING HEARINGS

Clause 21: Principles governing hearings

The Court is to conduct its procedures with the minimum of formality and will not be bound by the rules of evidence. The Court will be able to require a decision-maker under a relevant Act to produce documents and other materials to the Court for the purposes of any proceedings.

DIVISION 2— EVIDENTIARY POWERS

Clause 22: Power to require attendance of witnesses and production of evidentiary material

This clause relates to the power of the Court to summons persons to appear before the Court, or to produce evidentiary material. (The provision is similar to section 25 of the *District Court Act 1991.)*

Clause 23: Power of Court to compel the giving of evidence

It will be a contempt of the Court to refuse to make an appropriate oath or affirmation before the Court, or to give or produce evidence. (The provision is similar to section 26 of the *District Court Act 1991.)*

Clause 24: Entry and inspection of property

A member of the Court will be empowered to inspect, or to authorise an officer of the Court, to inspect, any land or building. (The provision is similar to section 27 of the *District Court Act 1991.)*

Clause 25: Production of persons held in *custody*

This will empower the Court to require the production of a person held in custody. (The provision is similar to section 28 of the *District Court Act 1991.)*

Clause 26: Issue of evidentiary summonses

This clause will enable a member of the Court, a registrar, or any other authorised officer to issue a summons or notice. (The provision is similar to section 29 of the *District Court Act 1991.)*

Clause 27: Expert reports

This clause empowers the Court to obtain an expert report on any question of a technical nature. (The provision is similar to section 34 of the *District Court Act 1991.)*

DIVISION 3— POWER OF COURT ON DETERMINATION OF MATTER

Clause 28: Powers of Court on determination of the matter

This clause sets out the powers of the Court on hearing any proceedings (not being criminal proceedings) under a relevant Act.

Clause 29: Costs

The Court will be able to order costs in certain circumstances (in a manner similar to section 31 of the *Planning Act* 1982). Various orders will be available to the Court in cases involving delays caused by the neglect or incompetence of a representative (in a manner similar to section 42 of the *District Court Act 1991*).

PART 7
APPEALS AND RESERVATION OF QUESTIONS OF LAW

Clause 30: Right of appeal

A right of appeal will lie to the Supreme Court. An appeal will lie as of right on a question of law and by leave on a question of fact (unless otherwise provided by a relevant Act).

Clause 31: Reservation of questions of law

A Judge will be able to reserve questions of law for determination by the Full Court of the Supreme Court.

Clause 32: Operation of decision or order may be suspended

The Court will be able to suspend the operation of a decision or order to which an appeal relates.

PART 8
MISCELLANEOUS

Clause 33: General powers of the Court and the Supreme Court to cure irregularities

The Court, and the Supreme Court or an appeal from a decision of the Court, will be able to excuse a failure to comply with a requirement under an Act or law if it is not unjust or inequitable to do so. (The provision is similar to section 35 of the *Planning Act 1982.)*

Clause 34: Interim injunctions, etc.

The Court will be entitled to grant an interim injunction to preserve the subject matter of proceedings before the Court until their final determination. (The provision is similar to section 30 of the *District Court Act 1991*.)

Clause 35: *Interlocutory orders*

The Court will be empowered to make interlocutory orders.

Clause 36: *Immunities*

Various immunities are granted to members and officers of the Court under this clause. (The provision is similar to section 46 of the *District Courts Act* 1991.)

Clause 37: Contempt in face of Court

It will be a contempt of the Court to interrupt proceedings, to insult a member or officer of the Court, or to refuse to obey a lawful direction of the Court.

Clause 38: Punishment of contempts

The Court will be able to impose a fine, or order imprisonment, in a case of contempt.

Clause 39: Power to require security for costs, etc.

The Court will be empowered to require that a party commencing proceedings in the Court give security for the payment of costs or other monetary amounts that may be awarded.

Clause 40: Interest payable on money order to be paid

Interest will be payable in relation to an order for the payment of money.

Clause 41: Miscellaneous provisions relating to legal process

Any process of the Court may be issued or executed on any day.

Clause 42: Proof of decisions and orders of the Court

A document purporting to be a copy of a decision or order of the Court and to be certified by a registrar will be accepted as a true copy of the decision or order, unless proved to the contrary.

Clause 43: Enforcement of judgments and orders

A judgement or order of the Court will be registrable in the District Court and enforceable as a judgement or order of the District Court.

Clause 44: Legal costs

The Governor will, by regulation, be able to prescribe scales of costs which legal practitioners will not be able to exceed when charging for representation.

Clause 45: Court fees

The Governor will, by regulation, be able to set court fees.

Clause 46: Entitlement of witness to be assisted by an interpreter

This clause is similar to section 14 of the *Evidence Act 1929* by providing that a person whose native language is not English is entitled to give evidence with the assistance of an interpreter.

Clause 47: Accessibility of evidence

This clause relates to the availability of evidence.

Clause 48: Rules

The Court will be able to make rules to regulate the practice and procedure of the court (subject to the provisions of the regulations and any relevant Act).

Clause 49: Regulations

The Governor will be able to make regulations for the purposes of the Act.

SCHEDULE

Commissioners

The schedule provides for the appointment of commissioners. A commissioner will be appointed on a full-time or part-time basis. The Governor will be able, if appropriate, to appoint a part-time commissioner for a term not exceeding five years. Other commissioners will be appointed on a permanent basis.

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

STATUTES REPEAL AND AMENDMENT (DEVELOPMENT) BILL

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

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

This Bill complements the *Development Bill.*

Planning for South Australia has over the years become confused with and subordinate to the regulation and control of private development. The separation of the *Planning Act* from other regulatory areas has tended to reinforce this trend at both State and local levels. Too much emphasis has been placed on regulatory control with the result that approximately 100 Acts of Parliament control some aspect of development in this State.

The difficulties caused by such a quantity of legislation are enormous. While many of these Acts refer only to a single topic and are rarely applied, even the most common of them have different procedures, are applied at different stages of a development proposal, are administered by different State and local government agencies and have different dispute and enforcement provisions for different Courts, tribunals and referees. As an everyday example, the construction, establishment and commencement of a delicatessen requires 18 different licences and approvals.

The *Development Bill* does not seek to rationalise and integrate all of those Acts. Its purpose is to establish an integrated system of planning and development control based on a long term vision for South Australia, set out in a Planning Strategy. As a major initial step the *Development Bill* provisions replace those presently in the *Building Act 1971,* the *City of Adelaide Development Control Act 1976* and the *Planning Act 1982* and the development control provisions of the *Coast Protection Act, Real Property Act* and *Strata Titles Act.* Furthermore, a framework has been provided which can gradually incorporate into one system all the justifiable controls on development that now exist in other legislation.

Accordingly, the *Statutes Repeal and Amendment (Development) Bill* repeals in their entirety the *Building Act, City of Adelaide Development Control Act* and *Planning Act* and removes the development control provisions of the *Coast Protection Act, Real Property Act* and *Strata Titles Act.*

The Bill also includes an amendment to the *Local Government Act* which precludes a council from undertaking a project outside the area of the council if the primary reason for proposing the project is to raise revenue for the council. This amendment has been made following numerous submissions from the development industry and will establish a better link with Development Plan policies. Another amendment seeks to ensure that councils have sufficient flexibility to make appropriate delegations under relevant legislation provisions.

Section 666b of the *Local Government Act* is amended by this Bill to allow councils to direct owners of unsightly land to rectify this situation, which extends the application of the relevant provision in accordance with the amenity issues by that section.

At present the *Planning Act* contains a requirement that, where an application is made under the *Mining Act* for the granting of a mining production tenement, the appropriate authority must publish in the *Gazette* and in a newspaper circulating throughout the State a notice of the application, inviting members of the public to make written submissions in relation to the granting of the mining production tenement. Such submissions must be made within 28 days of the date of the notice. This requirement has not been carried over into the *Development Bill.* Furthermore, the *Statutes Repeal and Amendment (Development) Bill* deletes a requirement for a similar 28 day period for public submissions presently contained in the *Mining Act.* In the place of these two notice periods this Bill amends the *Mining Act* to require the Minister responsible for the Act not to grant a mining lease or miscellaneous purposes lease unless he or she has caused to be published, in a newspaper circulating generally throughout the State, a notice inviting members of the public to make written submissions in relation to the application within 14 days of the publication of the notice. The Minister must also, within 14 days after receiving an application for a mining lease or miscellaneous purposes lease send a copy of the application to the owner of the land to which the application relates and the owner of any abutting land. This new notification procedure will make land owners more aware of mining applications and will streamline the approval process for mining applications, bringing it into line with the notification procedures for development applications under the *Development Bill.*

The *National Parks and Wildlife Act* is amended in order to require the Minister responsible for that Act to consult with the Development Policy Advisory Committee (established by the *Development Bill)* during the preparation of a plan of management. When preparing a plan of management, the Minister must have regard to the Planning Strategy and any relevant Development Plan. This will provide a necessary link between the *National Parks and Wildlife Act* and the *Development Act.*

The issue of fencing of swimming pools on private land is an important one. The *Statutes Repeal and Amendment (Development) Bill* provides that the *Swimming Pools (Safety) Act* does not apply to any swimming pool approved under the *Development Act.* This will ensure that there will be only one set of legislative provisions for the construction of new pools. The more stringent provisions relating to the fencing of new pools contained in the Building Code of Australia, which will be called up under the Development Regulations, will apply to the construction of all new pools. Ongoing maintenance of swimming pool fences around these new pools will be controlled by the *Development Bill* provisions. Existing pools will continue to be controlled by the *Swimming Pools (Safety) Act.* The

provisions of this Act could be strengthened later this year if this is deemed to be necessary after consideration of the White Paper on this issue being prepared by the Local Government Relations Unit.

The Bill makes provision for extensive transitional provisions so that a smooth transfer between the repealed Acts and the new *Development Act* can take place. These transitional provisions relate to such matters as the continuation of existing statutory policies contained in the Development Plan prepared pursuant to the *Planning Act;* Environmental Impact Statements officially recognised or required but not officially recognised under that Act; and applications, appeals or other proceedings commenced under any of the repealed Acts or parts of Acts. Such applications and appeals may be continued and completed as if the *Development Bill* and this Bill had not been enacted, except that a reference to the Planning Appeal Tribunal or City of Adelaide Appeal Tribunal or to a Building Referee will be taken as a reference to the Environment, Resources and Development Court.

Clause 1: Short title

This clause is formal.

Clause 2: Commencement

This clause provides for the commencement of the measure.

Clause 3: Interpretation

This clause defines "the relevant day" for the purposes of the Act.

Clause 4: Repeal of Building Act 1971

This clause provides for the repeal of the *Building Act 1971.*

Clause 5: Repeal of City of Adelaide Development Control Act 1976

This clause provides for the repeal of the *City of Adelaide Development Control Act 1976.*

Clause 6: Repeal of Planning Act 1982

This clause provides for the repeal of the *Planning Act 1982.*

Clause 7: Amendment of the Coast

This clause repeals the development control provisions of the *Coast Protection Act 1972.*

Clause 8: Amendment of the Local Government Act 1934

This clause makes various amendments to the *Local Government Act 1934*. The delegation powers of a council have been revised to allow delegations to committees that do not simply consist of members, and to ensure that other delegation powers under other Acts can operate. The amendment to section 80 ensures that an exemption under the Act that may be given to an officer in a conflict of interest situation cannot extend to any matter that arises under the *Development Act 1993.* Another amendment will provide that a council cannot undertake a project outside the area of a council if the primary reason for proposing the project is to raise revenue for the council. Another amendment extends the operation of section 666b of the Act to unsightly land (not just land made unsightly by a structure or object on land).

Clause 9: Amendment of the Mining Act 1971

The amendments affected by this clause are intended to complement those provisions of the *Development Act 1993* that relate to the assessment of proposed mining operations. In particular, the notice provisions are to be "streamlined" in relation to applications for mining leases and miscellaneous purposes licences.

Clause 10: Amendment of the National Parks and Wildlife Act 1972

This clause amends the *National Parks and Wildlife Act 1972* so that the Minister under that Act must, in the preparation of a plan of management, consult with the Advisory Committee under the *Development Act* 1993, and have regard to the Planning Strategy and the provisions of any relevant Development Plan.

Clause 11: Amendment of the Real Property Act 1886

This clause makes various amendments to Part XXIAB of the *Real Property Act 1886* that are consequential on the inclusion of land division provisions under the *Development Act 1993.*

Clause 12: Amendment of the Strata Titles Act 1988

This clause makes various amendments to the *Strata Titles Act 1988* that are consequential on the inclusion of land division provisions (including by strata plan) under the *Development Act 1993*.

Clause 13: Amendment of the Swimming Pools (Safety) Act 1972

This clause provides that the Act will not apply to swimming pools approved under the *Development Act* 1993.

Clause 14: Transitional provision—General

This clause ensures that any reference to the *Planning Act 1982* and Part XIXAB of the *Real Property Act 1886* will be taken to include a reference to the *Development Act 1993.* These provisions will not derogate from the *Acts Interpretation Act 1915* and, in particular, this measure and the *Development Act 1993* will be read together for the purposes of the application of the *Acts Interpretation Act 1915.*

Clause 15: Transitional provision—Development Plans

This clause provides for the conversion of the Development Plan, and Supplementary Development Plans, to Development Plans under the new legislation. In addition, the term "permitted" is to be taken to mean "complying" under the new Act, and the term "prohibited" is to be taken to mean "non-complying".

Clause 16: Transitional provision—Division of land

This clause facilitates the application of the new provisions relating to the division of land. The general effect is to allow existing certificates and procedures to continue to have effect after the appointed day.

Clause 17: Transitional provision—Environmental impact statements

An environmental impact statement officially recognised under the *Planning Act 1982* will be recognised under the new Act.

Clause 18: Transitional provision—Declarations

This clause relates to declarations of the Governor under section 50 of the *Planning Act 1982*.

Clause 19: Transitional provision—Agreements

This clause provides for the continuation of Land Management Agreements.

Clause 20: Transitional provision—Proclamation of open space

This clause provides for the continued operation of a Governor's proclamation as to open space.

Clause 21: Transitional provision—Development schemes

This clause provides for the continued operation of schemes under Part VIII of the *Planning Act 1982.*

Clause 22: Transitional provision—Approved qualifications

An approval given to a person to act as a professional adviser under the *Planning Act 1982* will continue for the purposes of the *Development Act 1993.*

Clause 23: Existing procedures, etc.

This clause preserves existing procedures, except that proceedings before the Tribunal will continue before the new Court.

Clause 24: Administrative arrangements

This clause transfers administrative arrangements, existing powers, and other functions and duties of the Planning

Commissions to the new Commission under the *Development Act 1993*.

Clause 25: Lapse of approvals under the Planning and Development Act

This clause relates to approvals under the 1966 Act, which will lapse after 12 months from the commencement of this measure unless exempted by this provision.

Clause 26: Transitional provision—Certificates of classification

This clause "converts" certificates of classification under the *Building Act 1971* to certificates of occupancy.

Clause 27: Transitional provision—Buildings specifically

This clause makes specific provision with respect to buildings and building work.

Clause 28: Transitional provision—Existing appointments

This clause preserves the existing appointments of full-time commissioners under the *Planning Act 1982*.

Clause 29: Application of an amendment

This clause ensures that the amendments affected by section 196 of the *Local Government Act 1934* do not affect projects which have already been approved under that Act or the *Planning Act 1982*.

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

BARLEY MARKETING BILL

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

ECONOMIC DEVELOPMENT BILL

The House of Assembly intimated that it had agreed to the Legislative Council's alternative amendments to amendment No. 9.

SOUTH AUSTRALIAN TOURISM COMMISSION BILL

Adjourned debate on second reading.

(Continued from 30 March. Page 1793.)

The Hon. M.J. ELLIOTT: I support the Bill. The aim of the Bill is to establish an essentially private enterprise body to coordinate the promotion and development of the tourism industry in South Australia. The tourism industry provides significant promise not only for our State but for the whole country. But, as with everything, I believe that there must be an element of caution in what we do. Along with increased travel within the country, Australia is now accepting more than two million visitors a year from other countries. Significantly, our near neighbours in Asia are increasingly providing the tourists, with numbers from the region up 40 per cent last year.

Although we may automatically think of Japanese tourists, while they may still be the largest single group, they are being joined by increasing numbers of visitors from Singapore, Taiwan, Malaysia, Thailand, Indonesia and Korea. These countries have growing economies and growing middle classes who are able to spend time and money on travel. In developing our industry and ensuring that Asians, along with Europeans and Americans, continue to come here we must look at why they are coming—and that is to experience something different.

Singaporeans and Taiwanese are not coming to shop and stay in luxury hotels and Indonesians are not coming to sit on white sandy beaches under palm trees. Most tourists travel abroad, whether that be to another State or country, to see something different from what they have at home. What Australia has that is vastly different from its Asian neighbours is its environment—animals, landscapes and climate—and it has increasingly recognised that offering visitors an experience of this environment is the drawcard to the success of its tourism industry.

This is where the note of caution comes in. A recent Bureau of Immigration Research report called 'Population Growth and Australian Regional Environments' found that tourists, more so than immigrants, have an enormous impact on Australia's environment. It showed that tourism more than doubled the population of some places in Australia during peak periods. The report stated that an area's environmental attributes, which often attract tourists, are most likely to suffer with an influx of visitors and it doubted that enough tourist-generated income went back into asset management to control the impact of tourists. It said:

> Tourists demand and consume transport and construction services, energy, food, water and so on, just as residents do. While there are differences in the consumption patterns of tourists and residents, much of the pattern of impact on resources and the environment is similar. The consumption and impact patterns of tourists, particularly international, should be examined rigorously in an environmental context. It would also be useful to have robust data on the degree to which the tourist industry returns capital to the management of visited environments.

While a growth in tourism may be to Australia's economic benefit, any impact on the environment should be looked at carefully. Clause 9(3) of the Bill provides that the proposed Tourism Commission will comprise tourism operators and business, financial and marketing people. My contention is that, with the very survival of the tourism industry dependent on the continued quality of Australia's natural environment, what about environmental management?

Much of what South Australia has to offer tourists, both domestic and international, involves the natural environment. I believe that the commission at all stages of its functions of identifying tourism opportunities and preparing plans for tourism promotion should be aware of all the issues surrounding the promotion of that natural beauty. That includes the provision of facilities, the visitor carrying capacity of certain areas, features and the restriction of visitor numbers where necessary.

During the Committee stage of the debate I will introduce an amendment to expand clause 9(3) to ensure that a person with environmental management expertise is among the directors of the commission. While the other people to be included have all the relevant commercial skills to promote tourism, I believe that environmental interests also must be a part of their deliberations. The Tourism Minister, Mr Mike Rann, has

already acknowledged the importance of environment to the industry with a $350 000 study into eco-tourism.

Eco-tourism is not new: it has been the lure of wild and beautiful places that has seen people of all ages flock to places such as the Flinders Ranges and Kangaroo Island. But if we are to have a commission working on how to exploit these unique attractions for increased financial gain for the State we must ensure that they do so with the utmost care. As I said, the Democrats support the Bill. We recognise the increasing significance of tourism as part of the South Australian economy and as part of regional economies. We must be very careful that the tourists do not ultimately destroy the very things they have come to see. It will take a great deal of sensitivity.

As I said, I am asking for only what appears to be a relatively minor change, and that is that one person on the board should be a person with an understanding of the natural environment and of its management, so that there will be that appreciation as various promotion and other issues are discussed at that level. The Democrats support the Bill.

The Hon. BARBARA WIESE (Minister of Transport Development): I thank members for their contributions to this debate. A few issues emerged during the course of debate that I think are worthy of further comment at this stage, although we will have an opportunity to expand on some issues during Committee. The first point that I want to refer to is an issue that was raised early in the debate when I think it may have been implied that the Minister of Tourism was keen to move to a Tourism Commission through some dissatisfaction with the current staff of Tourism South Australia.

The Minister has asked me to place on the record his high respect for the staff of Tourism South Australia and his gratitude for the work that they have undertaken on behalf of the tourism industry. A number of those members of staff, in fact, came from the private sector, and if I might say, just as an aside, that recruitment of staff from the private sector was one of the things that I encouraged during the time that I was Minister of Tourism. It was certainly my view, and I know that this view is shared by the current Minister, that that is the direction in which the Tourism authority should be moving.

Members opposite managed once again to distort the visitor statistics in this debate to try and spread doom and gloom about the state of our tourism industry. This is an insult to the operators who beaver away in all parts of our State contributing to our industry. Many of those operators have been very effective in promoting themselves interstate and overseas. The Hon. Legh Davis tried to tell us that our record on intrastate visitor trips is bad. He is clearly unaware that in 1991-92 we had a record high number of intrastate trips; there were 3 049 000 compared to 2 746 000 the year before. This is an outstanding achievement and a tribute to our 'Shorts' campaign. In the 1991-92 financial year the total number of domestic trips undertaken by Australian residents in South Australia rose by 7.7 per cent, the highest rise of all States, and only the ACT did better. The number of domestic visitor nights in South Australia rose by 10 per cent, the largest increase of all the States and Territories.

The international scene is a different and difficult one. Our market share is falling because South Australia's traditional markets are almost exactly the opposite of the Australian market. We figure much better in Europe and the United Kingdom as opposed to the Japanese and Asians who flood the eastern States markets, but even so the number of international visitor nights spent in South Australia has doubled from 1 677 000 in 1984 to 3 365 000 in 1991.

The A.D. Little report commended Tourism South Australia on its marketing initiatives. The current strategy is of a very high quality and realistic. They were the sort of conclusions that the A.D. Little study into tourism in this State made. The report did suggest further finetuning of its planning and positioning and enhancement of its destination appeal. The separation of planning and development functions from market functions will enable each area to be single focused in achieving these goals.

The Hon. Ms Laidlaw expressed concern that the Chief Executive Officer was to become a member of the new board. This was discussed at some length by the Tourism Advisory Board which was expanded to provide broad advice to the Minister in establishing the legislative framework of the commission. They argued strongly that having the Chief Executive Officer on the board, a common practice in the private sector, would increase accountability and ensure a shared commitment to the goals of the board.

Some honourable members queried why the budget cannot be presented simply on a one line basis. In fact, virtually all State Government bodies work on special deposit accounts which give them the necessary flexibility to move money between programs. However, a single line budget removes accountability to Parliament in that the separate programs give Parliament the opportunity to question what funds are used and where.

There was further concern expressed about the new Tourism Commission's relationship with the Adelaide Convention Centre. This issue again was discussed at length with the Tourism Advisory Board. They agreed that it was important to maintain links at a board level and, indeed, the current Chief Executive Officer is on the board of the Adelaide Convention Centre. However, more formal links were advised against as it would be widening the focus of the commission from its core function of marketing.

The Hon. Mr Davis, as he has done before, continued in his contribution to gloat over his belief that a survey of eastern States holiday-makers showed that some people found South Australia boring. The Minister of Tourism covered this matter in some detail in response to a question that was asked in another place last year at the time of the Hon. Mr Davis's attack on the South Australian tourism industry. I think that it is worth reminding honourable members of the sort of things that were said by the Minister of Tourism at that time. He pointed out to the members of another place at the time of the Hon. Mr Davis's comments that we were on the eve of the Grand Prix, which is South Australia's premier tourism event of the year and we were also on the eve of the National Tourism Awards, when hundreds

of industry operators and tourism journalists would be coming to South Australia. He chose this opportunity to show his lack of support for the efforts of people in this State. I quote from the Minister's response:

Mr Davis's selective and distorted use of statistics to put down the efforts of our industry deserves nothing but scorn. The same survey he used to call our State boring also showed that Adelaide rated higher than Bali or Fiji amongst those surveyed. South Australia's wineries in the Barossa Valley and Clare Valley rated higher than the Gold Coast and San Francisco.

The Minister went on to say:

The people of this State want energetic patriots, not cringing whingers, who want to seek to put this State down.

The Hon. L.H. Davis: You only have to look at the statistics to see that it is correct.

The ACTING PRESIDENT: Order!

The Hon. BARBARA WIESE: The Minister continued:

He quoted from figures given by only 250 people, not the 3 000 quoted, or less than 10 per cent of those surveyed. Of the total sample of 3 600 holiday-makers, 52 per cent found the Barossa and Clare Valleys either extremely or very appealing. The Flinders Ranges, Wilpena, coastal South Australia, Kangaroo Island, Port Lincoln and Victor Harbor were considered extremely or very appealing by 42 per cent of those surveyed. Adelaide, with a rating of 46 per cent, rated higher than Sydney on 37 per cent and also rated higher than Brisbane, Melbourne, Bali and Fiji.

That is the real survey released by the Queensland Tourism Commission, not the selective, distorted and dishonest release by Legh Davis. I think that quote is very quotable and worth repeating here today because, as we all know, the Hon. Legh Davis is a champion of recycling and peddling over and over again his false claims about most things. Those matters were answered in October last year but still he decided to stand up last night and repeat his false claims, so it is worth putting them on the record again.

The Hon. Ms Laidlaw expressed concern about the operation of disclosure of interest. These requirements are no different from those in other Bills, for example, the Economic Development Bill. There will be enough variety of interests represented on the board to ensure that even if an interest is disclosed sufficient independent people will be on the board to ensure proper assessment of the issue. Another matter that was raised concerned targets for the Tourism Authority. I have forgotten exactly which member it was, but it was probably the Hon. Mr Davis because he does not seem to understand these things.

The Hon. Diana Laidlaw: No, I did.

The Hon. BARBARA WIESE: The Hon. Ms Laidlaw reminds me that it was her. She claimed that no targets had been established in Tourism South Australia before. That is untrue. They have always been the basis of activities in Tourism South Australia and even to the extent of being published in the public tourism plan for 1993-94. I would remind the Hon. Ms Laidlaw that that is so, that it has always been so and that she is incorrect in asserting any differently.

The figures to which I have referred are further broken down in internal documents which, for competitive reasons, are not publicly available. These documents include the corporate plan and the marketing plan, which is currently being revised for consideration by the new commission. There are a few other issues that I would also like to comment on, particularly since the Hon. Mr Davis chose to use the passage of the legislation as a vehicle to raise matters relating to me and my performance as Minister of Tourism in South Australia, although those matters are totally irrelevant to the legislation before us.

Readers of *Hansard* will recognise that the Hon. Mr Davis has for a number of years pursued a very personalised and spiteful campaign against me. This has been commented upon on numerous occasions by parliamentary colleagues and others who observe the business of Parliament. I cannot be sure why this might be. I can only assume that it may have something to do with the fact that our careers have run somewhat in parallel. We both emerged in the 1970s from our respective youth movements in our Parties to become candidates for the seat of Glenelg, in the mid 1970s, although I might note that the Hon. Mr Davis's preselection was soon overturned by his Party. Later we entered the Legislative Council just six months apart.

However, unfortunately for the Hon. Mr Davis the similarity really ends there. I went on to become a Minister and the Hon. Mr Davis has been relegated to the back bench in Opposition, sometimes in and sometimes out of the shadow Cabinet. On numerous occasions—something like four occasions—he has been rejected by his Party colleagues in his efforts to transfer from the Legislative Council to the House of Assembly. So there is probably something in that and, although I cannot be responsible for the lack of success or job satisfaction that the Hon. Mr Davis has experienced in this place, nevertheless, I have had to endure some of the stones that he chooses to throw from time to time. The Hon. Mr Davis has made a number of comments about my role in this place over a long period and about my role as Minister of Tourism. There are a couple of things that I would like to say about that just to get a few things on the record.

First, I would say that sticks and stones may break my bones but words will never hurt me. I would be quite happy at any time to back my standing in the South Australian tourism industry against the standing of the Hon. Mr Davis. Having said that, I want to make just a few points of clarification. When I first became Minister of Tourism, the tourism area of government was a low budget and low profile area. The budgets were so inadequate then—that is certainly no reflection on my predecessor, because during his period as Minister of Tourism he managed to achieve significant increases in the budget—that there was in the first few months of my period as Minister a huge fuss that emerged because Tourism South Australia did not have sufficient resources even to be able to replace or reprint maps of South Australia when supplies ran out.

That was obviously totally unacceptable but, by the time I left the tourism portfolio, tourism had become a high profile area of Government with the budget that was doubled during that time, despite a climate of severe financial constraint and cut backs in other areas of Government. South Australia was the first State to embark on a proper planning process for tourism, and that included establishing targets for growth, which is a

matter I have already referred to. We embarked on a number of award winning marketing campaigns, including the 'Shorts' campaign, and at least the Hon. Mr Davis has had the good grace to acknowledge that that has been a successful campaign within South Australia.

We significantly boosted international marketing, both our presence and our activities. We more than doubled the number of international airlines servicing the State and international flight numbers rose from about four to 40 during that time. We achieved millions of dollars of free publicity on television, film and in the print media all over the world through the most ambitious visiting journalists' program in Australia and, since 1985, we have put much effort and energy in encouraging operators to upgrade and promote their services to be the best they can be. Through the national tourism awards, South Australia has won 23 awards, with 19 awards of distinction. In 1989 we won more than any other State and in 1991 we were equal top in award ranking with New South Wales.

By the time I left the portfolio last year we had an industry that was more united in purpose than it has ever been, that was committed more to joint marketing campaigns than some people believed possible and that had grown from being a very small scale cottage-based industry in the early to mid 1980s to one with much greater diversity of product, able to compete interstate and internationally. Of course, there is still much more to be done in building a competitive tourism industry for South Australia and the Bill before us this afternoon represents another major step towards achieving greater growth for our tourism industry.

I would like to make two further points on matters raised by the Hon. Mr Davis, although most of his contribution concentrated on the trivial and the micro picture rather than the big picture. First, on the question of bipartisanship, I wish to put on the public record that in the first week of the period in which I served as Minister of Tourism I was interviewed on a radio program and indicated to the interviewer that it was my view that tourism was an area where people could work cooperatively. It was my view that in politics there ought to be a bipartisan approach to tourism and I might say that on the same program, after I had spoken, the Hon. Jennifer Cashmore, then shadow Minister of Tourism, was also interviewed, and indicated clearly in that interview that she did not view tourism in that way. Since that time she, her successor and spokespeople from the Liberal Party have made it clear by their actions that that was the way they wanted to play the game. The Hon. Mr Davis in particular has operated in that way. Further, it is totally untrue that I have ever denied Opposition spokespeople briefings from Government agencies for which I am responsible, as the Hon. Ms Laidlaw would be able to attest.

The honourable member was briefed on request whenever she wanted by the Manager Director of Tourism South Australia when she was shadow Minister in that area, and currently she has access to relevant people in the transport portfolio when she wants it. On that point, it is quite wrong that I have ever denied the Hon. Mr Davis access to the Small Business Corporation.

All I have ever asked is that members of Parliament pay me the usual and accepted courtesies of arranging such access through my ministerial office. It is also untrue that I ever caused TAFE students to be admonished in relation to tourism survey work. I have always had the highest regard for the tourism and hospitality schools in our State and their students. As they will acknowledge during the time that I was Minister of Tourism, I devoted a great deal of my time—probably more than anyone else in Government—to participating in their activities and encouraging students who were undertaking those courses. I did that because we must have the very best trained people in our tourism industry if we are to have a competitive edge in the marketplace.

The training that people receive is the first step along the way to developing a sophisticated, well-trained industry which can provide the very best service. It was always my view that it was worth putting in as much time and effort in my capacity as Minister of Tourism to ensure that people who would be the future of our tourism industry should receive as much encouragement as they deserved. That covers the majority of issues that were raised by members during the second reading debate, and I look forward to discussing further issues during the Committee stage.

Bill read a second time.

In Committee.

Clause 1 passed.

Clause 2—'Short title.'

The Hon. DIANA LAIDLAW: I asked the Minister who is involved with this Bill, when she held the position of Minister of Tourism some two years ago, a question about the establishment of a tourism commission in this State, and she said in reply on 20 March 1991:

> There is no doubt that to move from the current structure to another would set back by at least two years the progress of the excellent improvements that are taking place in South Australia, because none of these organisations in other States has been established without considerable disruption to the work for which a tourism organisation is responsible: that is primarily the role of marketing the tourist attractions in their own parts of Australia.

In view of the Minister's comments, which highlighted her opposition to the establishment of a tourism commission at that time, will she say what concerns, if any, the establishment of the commission at this time will have on the marketing and promotion of tourist attractions in this State?

The Hon. BARBARA WIESE: First, it should be acknowledged that the tourism industry is a dynamic industry, which is something that I have always indicated when I have talked about it in the past. I know that is recognised by the current Minister. It is also an industry which has been in a very rapid growth phase in our State in particular during the past decade. As I indicated just a few moments ago, in the early 1980s our industry was not much more than a very small scale cottage-based industry which was catering largely to South Australians and predominantly Victorians.

During the 1980s, quite massive changes occurred. We saw the development of the International Airport, international standard hotels and an increase in all sorts of tourism product and, therefore, a shift in the ability of

South Australia to promote itself as a tourist destination. That also put great pressures upon the tourism authority itself, because it had to be in a position to respond to the sorts of changes that were taking place in the industry and also to provide considerable leadership to an industry which was small scale, with small operators and very few big operators, particularly in the early 1980s.

Also, from the early 1980s, there were very small budgets which over time have been increased. In the 1990s the situation is very different; we now have a very much improved tourism authority which has been able to adapt and which has more money to do the things that it does. We have an industry which has some big as well as small players. So, the situation has changed. The Government now believes that it is an appropriate time to take the next step of reorganisation, to build on the work that has been undertaken during the 1980s and to establish a tourism commission.

The Minister has been very much aware that the transition phase from the organisation moving from a Government department structure to a commission structure will be extremely important, and that is why he established the interim tourism board: to help to manage that process of change. Already that interim board has played an interim role in helping to develop the strategies to ensure that there will be a smooth transition from one form of operation to another. Of course, we are all very hopeful that that will work very well.

The Hon. DIANA LAIDLAW: Whereas in March 1991 the Minister anticipated that there would be at least two years disruption to the progress of marketing strategies in this State, does she now believe that there will be little or no disruption to the marketing promotion of this State interstate and internationally as a result of the commission?

The Hon. BARBARA WIESE: I am not here to talk about my views in this matter particularly; I am handling a Bill on behalf of another Minister. But as an observer in this area in which I was involved for a number of years I repeat what I have already said: it is a dynamic area which has been undergoing very significant change, trying to keep pace with the rate of growth of activity and diversity that has emerged within the tourism industry.

It was my judgment in 1991 that the organisation of Tourism South Australia was such that the work that was being done at that time was not an appropriate point where a very large shift in organisation would be desirable or helpful. As I have indicated, quite considerable shifts occurred within the organisation as it was, and there was a very big change in the marketing area in particular.

Just prior to that point, there had been a shift most especially in the leadership of the marketing area, and it is my view that, as a result of those changes that were taken around that time, the organisation is now in a position and has the expertise available to be able to take the next move on. I imagine that that is the thinking behind the current Tourism Minister's decision now to create a Tourism Commission.

The Hon. DIANA LAIDLAW: As the Minister indicated in her reply, she or the new Minister believes that the organisation now has the expertise to take the next step. Is she suggesting that all current members of Tourism South Australia will be invited to join the new Tourism Commission, including all those in marketing, since she places such emphasis on that area?

The Hon. BARBARA WIESE: As I understand it, it is the intention that the new board will be responsible for making decisions about future staffing arrangements. At the moment, I understand that there are a number of positions within the existing organisation that are vacant, and some of those positions will be advertised externally in order to bring new people into the organisation, presumably from the private sector. In the transition period, some members of the existing staff will carry on the work that they are doing now, but ultimately the full makeup of the staff of the commission and who will hold positions, and so on, will be guided and administered by the Tourism Commission board.

The Hon. DIANA LAIDLAW: So that people who are now public servants employed under the Government Management and Employment Act, I assume, will no longer be employed on that basis, with the establishment of the commission?

The Hon. BARBARA WIESE: As I understand it, those employees who will move from the current department to the commission will be given three years leave of absence from the Public Service, after which they will make decisions about their future. I think it should be pointed out that at the moment, although the majority of people employed in Tourism SA are employed under the GME Act, some members, particularly senior officers within the organisation, are employed on contract.

The Hon. DIANA LAIDLAW: So, it is the goal that all new employees will be employed on contract? I wish to ask the Minister a further question with respect to new positions to be filled: are they to be advertised, no matter the status of the positions within the organisation, within the Public Service locally and, as appropriate, nationally?

The Hon. BARBARA WIESE: As I understand it, that has to be negotiated, but it is expected that new positions would be advertised within the public sector as well as in the private sector.

The Hon. DIANA LAIDLAW: I assume from what the Minister is saying that all people engaged by the commission will ultimately be on contract.

The Hon. BARBARA WIESE: Ultimately, all employees will be on contract; yes.

The Hon. L.H. DAVIS: Will all present employees in Tourism SA who wish to move to the new Tourism Commission, which we are creating in this legislation, be automatically assured of a job within that commission?

The Hon. BARBARA WIESE: As I understand it, that decision will be the prerogative of the board.

The Hon. L.H. DAVIS: Does the Government have a view on this matter?

The Hon. BARBARA WIESE: As I understand it, the Minister of Tourism indicated in another place that he envisaged that, with the formation of the commission, some restructuring would be necessary and that, therefore, probably not all employees would automatically move from one organisation to the other. However, as I indicated a few moments ago, those decisions will be taken by the new board.

The Hon. L.H. DAVIS: Would the Government agree that the creation of a commission with high sounding

objectives. is much more than just having a change of letterhead and that it is an opportunity to restructure and strengthen the administration, management and marketing within Tourism SA? Surely, that involves personnel. Does the Minister agree with those sentiments?

The Hon. BARBARA WIESE: I am not here to provide my views on the matter; I am here to represent the Minister carrying this Bill through the Legislative Council, but as I understand the Minister's view on the matter he would fully agree that the establishment of a commission provides the opportunity for new directions, and he would not be taking this step if he did not view it in that way.

The Hon. L.H. DAVIS: I have another question on the commission. We have had plenty of precedents in Australia in the development of commissions to administer and market tourism in respective States. We are one of the last States to move in this direction, although my colleague the Hon. Diana Laidlaw and I have been advocating this for many years. Given the precedent and given the experience that other States have had in changing direction and moving from a department or a statutory authority to a commission, could the Minister advise as to what outside help, what outside consultancies and what views have been sought from other States and Territories in the matter of establishing a commission? It is much more than just passing legislation through Parliament. A timeframe and complex matters are involved. I wonder what support, outside help and experience from other States has been and is being sought by the Government in establishing this commission. The Minister may not have all this information at her fingertips. She may care to take at least part of that on notice and provide a full reply at a subsequent date.

The Hon. BARBARA WIESE: As I understand it, prior to taking this step to establish a commission in South Australia, the Minister made it his business to have talks with relevant people in other State Governments where such steps have been taken previously, and in particular there was extensive consultation with people in Queensland and in Western Australia. External consultants have not been employed to assist with this project, because the Minister felt that the expertise of the private sector, which has been used during the course of the development of this proposal, was adequate to assist with the shift.

As I have already indicated, an interim board, comprising representatives of the private sector who are practitioners in our own tourism industry and who understand it well, has provided the Minister with helpful ideas and information to assist him in establishing the direction that he wants to take. I think he would want to emphasise the fact that he views this State and its needs as unique and that any example from another State is not necessarily transferable to South Australian conditions, but he has tried to understand fully what has happened in other places and to combine and incorporate the very best ideas from all those areas.

The Hon. L.H. DAVIS: I take it that this consultation which the Minister has just described and which led to the legislation before us was initiated by the current Minister of Tourism rather than the former Minister.

The Hon. BARBARA WIESE: On the question of the establishment of a Tourism Commission, the process of consultation with the industry was certainly initiated by the current Minister, but I would not like the Hon. Mr Davis to be implying in his question that previously when I was Minister of Tourism there was no consultation with the industry on the way in which the tourism authority operated, because during my period in that position there has always been extensive consultation with industry both on my part and on the part of officers of Tourism SA. I am very pleased that the current Minister shares the view that there should be extensive consultation with the industry which our department, commission or whatever structure we have is there to serve.

The Hon. L.H. DAVIS: I think the Minister is deliberately misinterpreting what I said. I was making the plain and fairly obvious point that seems to be beyond dispute that the new Minister of Tourism (Hon. Mike Rann) has seen quite clearly as the very top of his priorities in tourism a change in the administrative structure and marketing arrangements for Tourism SA. He sees the best vehicle for the promotion of tourism in South Australia to be through a commission. The fact that now we have almost passed legislation, which establishes a Tourism Commission in South Australia, within a little more than five months of the Hon. Mike Rann's becoming Minister of Tourism is a clear indication, I suspect, to my colleague the Hon. Diana Laidlaw, myself and others in the tourism industry that this is a marked change in approach and attitude towards tourism in South Australia. This course of action has been advocated publicly not only by the Hon. Diana Laidlaw and myself but by many people in tourism. We have put on record our support for this measure, because we believe that by and large tourism should have bipartisan support. We welcome this move, but we regret that it has occurred many years later than it should have.

The Hon. BARBARA WIESE: I do not want to prolong this matter, but I refer the honourable member to *Hansard*. He was not in the Chamber when I was asked questions by the Hon. Ms Laidlaw about the development of this matter. If the honourable member reads today's *Hansard* he will see that I view this process as part of the evolution of the development of a dynamic industry. There have been various phases of the development of the tourism industry, particularly in South Australia, over the past 10 years, and this is another phase of its development.

The Hon. DIANA LAIDLAW: In her second reading speech, the Minister indicated that the commission will take on the key marketing functions of Tourism SA whilst other functions will be transferred to the Office of Business and Regional Development. She states:

> Specifically, the planning and development of tourism infrastructure, including investment attraction, administration of the $5 million tourism infrastructure fund and research will remain a direct responsibility of the Minister of Tourism, enabling the commission to have a sharper focus on implementing a State-wide marketing plan.

Will the Minister say who is to be responsible for the Regions Division? Will it be with the commission or will that responsibility be transferred to the Office of Business and Regional Development? I ask this question

because it is quite clear from the Minister's second reading speech and from the Bill itself that he is keen to have strong regional representation. If the Regions Division does go to the Office of Business and Regional Development, what relationship will there be between the commission and that office in respect of regional tourism?

The Hon. BARBARA WIESE: The main work of the Regions Division of Tourism SA is to perform a marketing function. It is therefore believed appropriate that the regional tourism functions of TSA should sit with the new commission rather than the Office of Business and Regional Development, and that is what is intended.

The Hon. DIANA LAIDLAW: Will all current contracts in the regions for marketing positions and executive officers be honoured, and will those personnel be transferred to the new Tourism Commission?

The Hon. BARBARA WIESE: As I understand it, existing contracts with those people will be honoured in the transfer and transition arrangements.

The Hon. DIANA LAIDLAW: The position of Manager of the Regions Division has been controversial for some time. Is that position to be retained and, if so, is it to be advertised or will the person who holds that position automatically go to the commission and, if not, will that person be given another position in the Office of Business and Regional Development?

The Hon. BARBARA WIESE: The structure in the new commission for all these positions and for who will hold these positions will be a decision of the board. I am not in a position to indicate what might happen to the particular individual mentioned by the honourable member.

The Hon. DIANA LAIDLAW: Will information and sales services stay with the commission or will they be transferred to the Office of Business and Regional Development?

The Hon. BARBARA WIESE: They will stay with the commission.

The Hon. DIANA LAIDLAW: Will the decision whether the current number of overseas officers will stay the same be left to the commission to work out within the budget assigned to it by the Government or will guidelines be provided to the commission indicating that the number of overseas officers should be increased or diminished?

The Hon. BARBARA WIESE: The latter.

Clause passed.

Clause 3—'Object.'

The Hon. DIANA LAIDLAW: In paragraph (a) the object of the commission is noted to be the promotion of South Australia as a tourist destination, and in paragraph (b) the object is to be the further development and improvement of the State's tourist industry. Why is the word 'further' in paragraph (b) but not in paragraph (a), or *vice versa?*

The Hon. BARBARA WIESE: I do not think there is any particular reason why the terminology is as it stands, except that I would think that in talking about the further development of the tourism industry we are discussing particularly the physical future and further development of an industry which is already partially developed. In the case of the first point, I suppose you could say that it ought to refer to the further promotion of the State, but it is something which stands alone. The promotion of the State is something which must be undertaken by the commission. In the case of the second point, it is acknowledged that there is already in existence a tourism industry, and the objective is to further develop it.

The Hon. DIANA LAIDLAW: It seems to me that it shows little confidence in the work that has been done to date to promote the State. I think it is unfortunate that it reads as such, even though I do not support such a contention because I do know through the Shorts program in particular that the work has been outstanding in terms of the promotion of South Australia as a tourist destination. I feel that it is unfortunate that that connotation can be read in the objects of this very important Bill.

The Hon. BARBARA WIESE: I do not think it will be a widely held connotation, and anyone who appreciates what has been done in the past would acknowledge that and would not read these words as the Hon. Miss Laidlaw seems to be reading them.

Clause passed.

Clauses 4 and 5 passed.

Clause 6—'Board to be governing body of commission.'

The Hon. DIANA LAIDLAW: The Minister mentioned in her second reading reply that an interim board had been established to help guide and develop the framework for this Bill. Are the members of that board to be the same members of the board following the enactment of this legislation?

The Hon. BARBARA WIESE: There is something I need to clarify here. The work that has been done thus far in establishing the idea for the development of a commission and the preparation of legislation, and moves in that direction, has been achieved with the advice and assistance of the current Tourism Advisory Board, which has been expanded a little to include a wider range of interests. The next phase will be to establish an interim board. That is due to occur very shortly and it is intended that the members of the interim board will carry on to become the board once the tourism commission itself is established.

Clause passed.

Clause 7—'Ministerial control.'

The Hon. DIANA LAIDLAW: Subclause(3) provides:

> The board must, in relation to each financial year, enter into a performance agreement with the Minister setting performance targets for the commission that the board is to pursue in that financial year.

What criteria or measurements will be established as the targets to be met for, for instance, visitor numbers in a domestic and international sense; visitor nights; airline arrivals; bed numbers; and dollars spent on promotion? What sort of matters does the Minister believe are important to establish as performance targets?

The Hon. BARBARA WIESE: That is a matter which will be the subject of negotiation between the Minister and the new board, but it is expected that it would include a range of qualitative and quantitative measures of one sort or another. Perhaps some of the examples that were referred to by the honourable member would be among them.

The Hon. DIANA LAIDLAW: Although I no longer hold the position of shadow Minister in the area I would be very keen to see what performance targets are established because, in my view, that will be critical, in addition to the capacity of the people on the board and in the Tourist Commission itself, in the success of South Australian tourism. In relation to my ideas in terms of the matters that may be agreed to as part of the targets that are to be considered by the Minister, I would add the issue of sales to that list, because one can market and promote as much as one likes but if one is not making a sale there is very little to be gained from the whole exercise. So a strong sales thrust would be something I would advocate very strongly.

In terms of the performance targets (the Minister may not be able to answer this question) it would be of interest to me to know whether consideration has been given to cooperation with the regions. Would the targets be in the direct control of the commission in terms of marketing in relation to dollar figures and numbers through the Information and Travel Centre and so on, or is it likely to be something that would heavily involve the regions? How does the Minister or the Government anticipate they will be able to control these factors? How, for instance, will they be able to bind the regions, if the regions are involved, to honouring these performance targets, and what sanctions generally would apply if targets are not met?

The Hon. BARBARA WIESE: I think it should be pointed out that this clause relates only to performance targets to be established by negotiation between the Minister and the commission. What the commission, or the board of the commission, decides to do with respect to any negotiation or discussion that it might have with people in the regions is something quite separate and will be determined by the board once it is established. As to the question of sanctions, as far as the regions are concerned that obviously would be something that they would have to consider as well. With respect to this particular clause, and any sanctions that might apply there, I suppose it could be said that if it becomes clear that the new board is not satisfactorily matching up to its performance targets then the ultimate sanction is for the board to be sacked or disbanded.

Clause passed.

Clause 8—'Chief Executive Officer.'

The Hon. DIANA LAIDLAW: This clause relates to the appointment of the Chief Executive Officer. I indicated in my second reading speech, and the Minister has in part responded, my concerns about the fact that the CEO will be a member of the board. The Minister's explanation was that the expanded advisory committee had recommended that the appointment of the CEO to a board in the private sector was a common practice, and that is so. However, I am of the view, and perhaps more so after the State Bank fiasco in this State, that in the public sector it is questionable whether the CEO should be on the board and I would like to put that on the record. In this commission we have the board subject to control and direction of the Minister and then the CEO subject to the control and direction of the board and yet we see in section 9 that in relation to the composition of the board all the board members apart from the CEO are appointed for terms up to three years, but the appointment of the CEO could be for any length of time, possibly five years.

So, we have the CEO who is meant to be probably the one, on a daily basis, establishing and overseeing these performance targets, in a position where they are a member of the board and, in fact, could remain on the board a great deal longer than the appointed chairperson. I think it becomes a very confusing situation in terms of accountability and responsibility. I would like that view, while not shared by the majority of those people in my Party, firmly put on the record, because although this situation might suit the ego and status of the CEO I do not think it is necessarily in the best interests of the operations of such boards and of accountability to Government and, ultimately, to the taxpayers.

The Hon. BARBARA WIESE: I appreciate that the honourable member has these views but I would like again to simply place on the record that the Tourism Advisory Board members, who are all from the private sector and who have been involved in making the recommendations that have formed the basis of this legislation, have a different view and I suppose we are all going to have to wait and see how well this works. If a problem should emerge in the future with this sort of structure, then no doubt a future Minister will have the opportunity to review it.

The Hon. DIANA LAIDLAW: Can the Minister confirm that the position of CEO, which will be absolutely critical for this job, will be advertised, and not only outside the Public Service but also interstate and possibly overseas?

The Hon. BARBARA WIESE: It is the intention that the position of CEO would be advertised within the public sector and private sector nationally.

Clause passed.

Clause 9—'Composition of board.'

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

Page 4, line 12—After 'marketing' insert ', environmental management'.

During the second reading stage I expressed only one concern about this Act, namely, what I saw as a need to develop the tourism industry sensitively so that we do not end up destroying the very thing that people are coming to see. I think it must be acknowledged that the two pluses that South Australia has, the two reasons why people will come to South Australia, are for reasons of cultural tourism and for reasons of ecotourism. Both of those are sectors which are growing and I think growing fairly rapidly. Ecotourism is not as developed as cultural tourism but in the long run may prove to be our greatest tourism asset.

As I said, there is a very real danger, if we are not careful, that the very things that people come to see we may degrade in some way and, while it may not kill our tourism industry, it might severely hamper it. It is for that reason that I move the amendment standing in my name. Among the board's membership there are various forms of expertise, and I believe that one expertise that should be included across the spread of expertise is an expert in the field of environmental management. I had a discussion with the Minister and we agreed to disagree on the need for that. I have gone away since the discussion and had another look at the function of the commission and I still feel as convinced as I was when I

went to see him that we should have somebody with sensitivity in this area.

Unfortunately, I think that in South Australia we have often had ourselves trapped in the development/anti-development debate, and one which I have always believed is unnecessary, but often when things go via the media they become black and white. I think many of our difficulties can be nipped in the bud by a bit of sensitivity in crucial areas. I think the board is one of these places. If I go through the functions of the commission I think I can illustrate where I think a such a person will help. The very first function in clause 19 of the commission is:

(a) to promote South Australia (internationally and domestically) as a tourist destination.

It would worry me greatly if the Tourism Commission started promoting sectors of our tourist industry before they are ready to cope, and 'ready to cope' means many things. There may be enough buses, there may be enough rooms or whatever to handle the people, but what if the actual destination itself, which people have come to see, is not ready?

I give the example of a place that is ready. Seal Bay on Kangaroo Island is an excellent example of a place that is being developed sensibly, so that as many people as possible get a chance to go among the seals but not so many as to cause a problem. If there are more than the beach and the seal population can cope with, there are other viewing areas. That area has been developed sensitively and can handle many more tourists. It would not be as much fun because there would be more people standing at the top, but we know, at the end of the day, the experience in the long term will not be destroyed and we know we can promote that site overseas. We know that people will go away thinking that that was a fantastic experience. We know that the extra numbers will not cause potential harm.

If someone was on the commission when it was looking at promoting projects, if they had their antenna out, they could say, 'By all means, let's start promoting this other site [I will not name one, but it could be the Flinders Ranges or another site] but, if we start getting too many people in that area right now, we are asking for trouble.' that simply involves someone whose antenna is up suggesting, 'Perhaps we should be going back to the people at the regional development level and saying that a few other things need to be done before we promote the activity further.' I am not advocating zero promotion, but I am saying that we should be sensitive about our directions. That is just looking at function (a).

Function (b) is to identify tourism opportunities. We have many opportunities around South Australia about which we have barely scratched the surface. While we have other people on the commission who may be able to spot an opportunity, one of the important aspects about spotting an opportunity is also spotting the potential difficulties. If we recognise the difficulties early—not to the extent that we do not go ahead and not do anything—as we proceed along the path we will not strike problems later. I can think of developments in this State already where, if someone had had their antenna up early enough, then several proposed developments would have already been built. I might be veering to one side of paragraph (b), but I am trying to illustrate what happens if someone highlights problems.

Without the cable car going right through the middle of Cleland Conservation Park, the Mount Lofty project would have been built long ago, but no-one warned early enough that there was one aspect of the development that could cause particular problems. There may be others, but that is an illustration. As to Tandanya, someone should have said early on, 'If you go into that area, you will have a problem with fire regulations and you will have to clear much native vegetation, but if you go 400 metres east, you will not have any of those problems.' No-one flagged those problems. It is just a matter of someone early enough having the antenna up and saying, 'There is a potential problem.' That project could have been built by now.

In the case of Wilpena, if only someone had had their antenna up and flagged a couple of problems, we would have had a development or several smaller developments in the Flinders Ranges before now. What happened was that a committee identified a tourism opportunity. They said, 'The Flinders Ranges is an opportunity.' That committee went further and identified a particular site and inflexibly ever since that site has been pursued. If only someone early on had flagged some potential difficulties. That is not being negative—it is being positive. Function (c) provides:

to contribute to the preparation and implementation of economic development plans...

If the commission is going to make that contribution, I believe part of the commission's contribution has to be the sensitivity to potential environmental problems, which eventually come back to the industry itself. Function (f) provides:

to assist regional bodies engaged in tourism promotion;

I can tell the Committee, having had dealings with those bodies, that they almost certainly lack expertise in the area of environmental management. If the commission is providing advice and those bodies lack it, those issues most likely will be ignored. Function (g) is as follows:

to ensure the provision of appropriate tourism...

What do we mean by 'appropriate tourism'? Is not part of appropriate tourism about an awareness of possible impacts? Function (h) is as follows:

to work with and provide advice to operators for improvement of the quality of tourism services and products;

Should not someone be advising operators about the impacts they are having on the sites they visit as it will affect the quality of the service and product? The next group that goes through the same place will be going to an impacted area. The same tour group will go back later and encounter the same problems. If the commission is going to provide advice to operators about quality services, part of the advice should be about impacts. Function (i) is as follows:

to encourage Government, industry and community action to enhance visitors' experience...

If a person visiting South Australia is an ecotourist and if we want to enhance their experience, someone should have an understanding of the environment that they have come to see. Function (j) is:

to advise and provide reports to the Minister on matters relating to tourism and the tourism industry of the State;

That is a fairly general function and I have no doubt at all that a person with environmental management credentials could make a significant contribution to that function. I have been shown a flow chart by the Minister under the economic development strategy having three strands. We have the commission, the Economic Development Authority and business and regional development all coming together to produce a tourism plan. The Minister put to me that perhaps environmental management advice would come through business and regional development, but I am not too convinced about that and I will ask a question about it later.

While the commission is making its deliberations and preparing to give all sorts of advice—the Committee can see as I have gone through almost all of the functions—there is the potential that part of the advice and sensitivity has to be about environmental management and for its contribution to be a balanced one, as well as adding to the whole, coming from the other two. That is an aspect that needs to be taken into account. I do not believe that I am asking for too much. I believe I am trying to address a problem that we have had in South Australia for a decade in terms of development—not just tourism development but development generally. There has been a lack of appropriate sensitivity early in planning processes and this has created huge problems later on. I am simply seeking to inject that sensitivity early so that many of the confrontations that we have had in the past could have been avoided and many of the confrontations that we will end up having in the future could also be avoidable if only we allowed for that sensitivity. I urge the Committee to consider the amendment seriously. I am not treating it lightly because it is important.

The Hon. BARBARA WIESE: The Government opposes this amendment not because the Government is insensitive to the sorts of issues that the honourable member has raised—far from it—but it would be inconsistent with the philosophy that underpins the way the board membership is to be comprised. It could be said that if we were to prescribe in the legislation that there should be someone with expertise in environmental issues, then equally we should also be making specific reference to people from the arts, sport or people with an interest in conventions, the hotel industry and so forth. The idea behind the establishment of the board is to ensure that it is comprised of people who have a broad range of interests that will be relevant to the prime purposes of the commission, which is marketing the State as a tourism destination.

No person sitting on that board should be a representative of a particular organisation or set of interests. They should be people who have relevant expertise and who are able to assist with the policy making decisions that must be made by the commission.

Many of the issues which were raised by the honourable member and which will certainly have to be given proper consideration in South Australia with respect to tourism development and marketing will be able to be fulfilled in other ways. For example, a number of the issues that were raised by the Hon. Mr Elliott related to the type of tourism development that should occur in the future. It is the intention—and it must be encouraged—that there should be proper communication between those who are associated with the commission and those who are responsible for development matters that relate to the tourism industry. They must have a common understanding of the environmental questions that will be of concern to the community. That will be encouraged not by necessarily having someone on the board who has those interests and that expertise but by making sure that the right people are talking to each other and have a common understanding of the issues.

You would also expect that within the staff of the commission itself you would have people who have environmental expertise or who understand those issues. You would expect that people who would be transferred to the Office of Business and Regional Development and who will have a development focus will also have an understanding of those issues. Of course, it will always be possible, where desirable, to have access to people in the community, to have access to appropriate consultants and a whole range of other people to deliver or fulfil some of the functions to which the honourable member referred.

Of course, having said all that, I must say that nothing would stop the Minister from determining that one of the people to be chosen to sit on the board should not come from the environmental area. That is a matter for the Minister, and it is a matter that will be taken up at the appropriate time. But it is certainly his desire that the board should be comprised of individuals with a range of expertise that will be appropriate to fulfil the functions of the board itself. So, for that reason, the Minister does not wish to prescribe any particular area of expertise in the legislation.

The Hon. DIANA LAIDLAW: I have not had an opportunity to canvass this amendment with my colleagues and, because it addresses environmental issues, there may be some debate within my Party on the matter. Notwithstanding no consultation, my personal inclination is to support the amendment, and I will do so. The matter can be debated between here and another place, but at least the support does keep the issue alive. However, I do respect the Minister's arguments—and they are very tempting—when she adds words such as 'the arts' because she knows my passion for the arts and cultural heritage, what she says is fair and tempting.

Once one starts putting in these interests or occupations, it is hard to know where to stop. However, precedents are set in terms of marketing and industrial relations and, as the Hon. Mr Elliott explained—and we all in this place acknowledge it—one of the reasons why we do not have the product we should to market and to bring people to this State is the fact that we have not learnt how to maturely introduce in the first instance developments that will win community support. And they have not won community support because they have been offensive to a large section of the community because of their environmental impacts.

Given this past experience, whether it be Wilpena, Tandanya, Mount Lofty or any of the marina developments, that is sufficient reason at this time to make specific reference to environmental management as being one of the areas of expertise that should be represented on the board. On behalf of but without consultation with my Party I support this amendment at this time.

The Hon. M.J. ELLIOTT: I am grateful for the support, although it is somewhat qualified at this stage. I must just underline one point: I had a feeling that, from the Minister's response, she was seeing this matter as a representation of a vested interest. It could be presented that way, but that is not the argument that I constructed: I constructed an argument that, having a person with these skills represented on the board, is a facilitator for things happening, rather than the other way around. I do not see a person who has environmental management expertise as being a person who will stop development. If we had been using those sorts of people earlier and over the past decade, much more development would have occurred, because it would have been sensible to start off. That is where these black and white, glass dome and all the other arguments we have had have really missed the point.

I want to see the matter get back on the rails. I have had seven years of debates of the black and white sort which have been aggravating, and I want to see them finished, and I know many South Australians do, too. I am doing this in a constructive sense and not in the narrow greenie sense that some people want to attach to it. I make no apology for being a greenie, might I add, but it is not the narrow self-interest of the environment alone that motivates me to put this in. It involves not only the environment self-interest: it is the self-interest of the State as a whole that I am pursuing with this amendment. As I said, I am grateful for the Opposition's support at this stage.

Amendment carried.

The Hon. DIANA LAIDLAW: With regard to the interim and ultimate boards, will the Government aim to fulfil its target of 50 per cent plus women as members of the board? The Minister would know from her years of experience in the tourism field—and I am certainly well aware of it—of the enormous contribution that women make to tourism within this State. Would their contribution also be recognised in terms of representation on the board?

The Hon. BARBARA WIESE: The honourable member first referred to the Government's target to achieve 50 per cent women. Certainly, that is a target that the Government is pursuing but, just to concentrate specifically on the policy that has been adopted by the Government, I think it should be acknowledged that the policy is actually a staged policy, that the 50 per cent target is projected to be reached by the year 2000 and that there are a couple of other phases in between. That aside, I know that the Minister is very aware of the Government's policy and the desire of women in the community to be properly represented at all levels of Government and in other areas of human endeavour, and he has shown by his previous actions that he is conscious of the need to appoint women wherever possible. It would be his intention to have as many women as possible represented in shaping the whole variety of expertise that he is looking for with his board. I am not in a position at this point to say exactly what the composition of that board will be in terms of gender balance, but I can assure the honourable member that the Minister is very conscious of the need to ensure that women are represented.

The Hon. DIANA LAIDLAW: I am very pleased to receive the Minister's answer, because I have been told that, of the 17 people being considered for membership on the interim board and later the full board, only two are women, so perhaps the Minister in this Chamber could also take an interest in this matter. Also, can the Minister indicate the Minister of Tourism's intentions to appoint seven or the maximum number of 10 directors, as provided for in clause 9(2) of this Bill?

The Hon. BARBARA WIESE: The Minister has not finally decided how many people will comprise the board, but it is likely to be closer to 10 than seven.

Clause as amended passed.

Clause 10—'Conditions of membership.'

The Hon. DIANA LAIDLAW: Will the Minister advise whether the conditions of the Public Corporations Act that we passed last night will apply to the South Australian Tourism Commission, in addition to the conditions that are outlined in this Bill?

The Hon. BARBARA WIESE: As I understand it, they will probably not apply to this organisation, as they are intended to apply to commercial organisations. Although I recognise that the Tourism Commission is to be established as an organisation which operates on commercial principles and which predominantly serves the private sector, some of the functions of the organisation will be very different from those that would be likely to apply for a Government business enterprise.

Clause passed.

Clause 11 passed.

Clause 12—'Remuneration.'

The Hon. DIANA LAIDLAW: What will the remuneration amounts and expenses be, especially as this board will not be subject to the Public Corporations Act? I would like some idea of the range of remuneration and expenses in this area of tourism where a great deal of expense can be involved, as I know from personal experience.

The Hon. BARBARA WIESE: That has not been determined at this stage.

Clause passed.

Clause 13 passed.

Clause 14—'Disclosure of interest.'

The Hon. BARBARA WIESE: I move:

Page 6, after line 3—Insert subclause as follows:

'(la) A director will not be taken to have a direct or indirect interest in a matter for the purposes of this section by reason only of the fact that the director has an interest in the matter that is shared in common with the public or the tourism industry generally or a substantial section of the public or the tourism industry.'

This amendment expands upon the provisions that currently exist in clause 14 relating to disclosure of interest as it would apply to directors. During the second reading debate, the Hon. Ms Laidlaw raised some concerns with respect to this question of disclosure of interest, and this matter has subsequently been given further consideration. That has led to the drafting of this amendment, which is designed to clarify the intention. So, this amendment provides that a director will not be taken to have a direct or indirect interest in the matter for the purposes of this provision by reason only of the fact that the director has an interest in the matter that is shared in common with the public or the tourism

industry generally, or a substantial section of the public or the tourism industry.

This is designed to separate much more clearly the direct interest that an individual who is serving on that board and who is a member of the tourism industry would have as a participant in a matter, as opposed to the more generic interest that that individual would have, just by virtue of the fact that he or she is a member of the community or a member of the broader tourism industry. I hope that that will go some way, if not all the way, towards satisfying the sort of concerns that were raised by the Hon. Ms Laidlaw.

The Hon. DIANA LAIDLAW: I thank the Minister for her courtesy in listening to my concerns about this matter and even further in moving this amendment. I can assure her that it goes a long way towards satisfying my concerns. I will not labour this, but it does seem to me that a Tourism Commission comprising people with expertise in tourism and regional tourism would have, if not a direct interest in the matters before the commission, almost certainly an indirect pecuniary or personal interest. This amendment is important in that context, because we would want everyone to believe that those who are fortunate enough to be appointed to this commission could contribute all their knowledge and enthusiasm for the great bulk of the time.

Amendment carried; clause as amended passed.

Clauses 15 to 18 passed.

Clause 19—'Functions of commission.'

The Hon. DIANA LAIDLAW: I have a number of questions concerning the operations of the commission. It seems to me that so much that is sought by the Government in the outline of the functions of the commission is not only noble and important if we are to succeed in our tourism objectives in this State but will need quite a bit of money to realise. In a submission to GARG in 1991 the Minister complained that tourism's forward vision:

> ...had been significantly constrained by the relatively small financial and staffing resources with which it has had to operate. Recognising the budgetary difficulties of the time, these bids were constrained relative to what was needed to increase market shares and our competitors' resources, and yet the allocations have still fallen well short of the identified levels needed to achieve the growth targets which only retain our historic market shares.

Can the Minister say whether following the establishment of the commission from 1 July there will be an increased budget for tourism so that the commission is not constrained as Tourism SA has been constrained in the past by funds and staffing resources from releasing its objectives?

The Hon. BARBARA WIESE: I am not in a position to indicate future budgets. Obviously, they will be the subject of negotiation during the usual budget process, but it is hoped that representatives of the private sector in the tourism industry will be more forthcoming in contributing to joint marketing efforts as a result of the establishment of a Tourism Commission, as some of them have indicated they would be if such a commission were established. If that is the case, the marketing effort of the State will be vastly improved, quite apart from any considerations that the Government might give to budget matters.

The Hon. DIANA LAIDLAW: Will the Minister give an indication of estimates of additional funds that will flow for marketing and promotion in this State, arising from the establishment of the commission, from the private sources she mentioned? The Minister indicated that she understood that more funds would come from the private sector.

The Hon. BARBARA WIESE: I expressed the hope that such funds would be forthcoming from the private sector in line with statements made by people in the private sector that they would be more inclined to contribute funding under a commission structure. The Government hopes that this will come to fruition once the commission is established.

The Hon. DIANA LAIDLAW: Tourism SA is now installed in the Remm Tower at $700 000 per annum with an important new shop frontage in the AMP building. What are the plans for the break-up of Tourism SA, the establishment of the commission and the transfer of some of TSA's functions to the Office of Business and Regional Development? Will people move out of the Remm Tower to elsewhere in the city; if so, what space within the Remm Tower currently occupied by TSA will become vacant, and do we have lease obligations in that regard?

The Hon. BARBARA WIESE: It is not intended that the physical accommodation of the commission will be any different from current arrangements.

The Hon. DIANA LAIDLAW: So, planning and development will stay at the current location?

The Hon. BARBARA WIESE: The planning and development aspects of the current organisation will come under the control of the Office of Business and Regional Development. That organisation is currently located in the Remm building. It is therefore not intended that the officers who will move to that organisation will need to shift physically; they will maintain the offices they currently occupy.

The Hon. DIANA LAIDLAW: One of the functions of the commission under clause 19 (g) is 'to ensure the provision of appropriate tourism and travel information and booking services'. What has happened to the staff of the overseas travel unit following the decision that this work be contracted out and taken over by Westpac, and what is the intention of the Government or the commission in the light of the fact that under clause 20(c) the commission may engage consultants or other contractors? What is the commission's intention with regard to other information and sales services? Will they also be contracted out to the private sector?

The Hon. BARBARA WIESE: I understand that at least one or two of the staff of the former overseas travel section of Tourism SA have taken a voluntary separation package and left the Public Service and other staff have been placed in positions either within Tourism SA or elsewhere. The new commission will decide whether information and sales services will be further contracted out, but I am advised that there are no plans, at least in the short term, for that to occur.

Clause passed.

Remaining clauses (20 to 26) and title passed.

Bill read a third time and passed.

MUTUAL RECOGNITION (SOUTH AUSTRALIA) BILL

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

The Hon. BARBARA WIESE (Minister of Transport Development: 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.

The purpose of the Mutual Recognition (South Australia) Bill is to enable South Australia to enter into a scheme for the mutual recognition of regulatory standards for goods and occupations adopted in Australia. Mutual recognition is an initiative arising out of the series of Special Premiers Conferences which have been conducted over the past 18 months with the objective of achieving an historic reconstruction of intergovernmental relations. The principal aim of mutual recognition is to remove the needless artificial barriers to interstate trade in goods and the mobility of labour caused by regulatory differences among Australian States and Territories. Mutual recognition is expected to greatly enhance the international competitiveness of the Australian economy and is a major step forward in the achievement of micro-economic reform. It involves a recognition by heads of Government that the time has come for Australia to create a truly national market - a policy embodied in the Constitution but not made possible for almost 100 years.

At the Special Premiers Conference in Brisbane in October 1990, heads of Government agreed to apply mutual recognition of standards in all areas where uniformity was not considered essential to national economic efficiency. Heads of Government gave their in-principle support to models of mutual recognition for goods and occupations at the Special Premiers Conference held in Sydney in July 1991, subject to the outcome of a national community consultation process.

National consultation between July and November 1991 involved the release of a discussion paper entitled 'The Mutual Recognition of Standards and Regulations in Australia' and a series of seminars in each capital city led by the Honourable Neville Wran, AC, QC. Input was sought from business, industry, trade unions, the professions, standards-setting bodies and consumer and community representatives on any necessary refinements to the mutual recognition models. Some 200 written submissions were received. Results of the consultation process were considered by Premiers and Chief Ministers at their meeting in Adelaide on 21 and 22 November 1991.

While there was a range of views expressed at the seminars and in the submissions, the concept of mutual recognition was widely embraced as a means to overcome regulatory impediments to a national market in goods and services. The majority of submissions did not call for substantial changes to the models, although some expressed a preference for uniformity. On that point, it is important to note that mutual recognition is intended to complement the efforts of regulatory authorities in achieving nationally uniform standards. It will not impede those effects where it is agreed that uniform national standards are necessary. On the contrary, recent experience with the medical profession, for instance, suggests that mutual recognition will hasten the successful resolution of such endeavours. The mutual recognition proposals were subject to public scrutiny after Premiers and Chief Ministers agreed to release the draft Mutual Recognition Bill in November 1991. Changes which have been made to the draft legislation as a result of submissions received are generally of a minor drafting nature only. Again, overwhelming support for the concept of mutual recognition was evident, with a few notable exceptions, which continued to favour national uniformity. It is an indication of the common sense which underlies the concept of mutual recognition that these proposals have had the clear support of Governments of all different political persuasions from the outset.

All heads of Government agreed, when they met on 11 May 1992, to sign the Intergovernmental Agreement on Mutual Recognition. The Agreement actively promotes the development of national standards in cases where the operation of mutual recognition raised questions about the need for such standards to protect the health and safety of citizens, or to prevent or minimise environmental pollution.

The legislation is based on two simple principles. The first is that goods which can be sold lawfully in one State or Territory may be sold freely in any other State or Territory, even though the goods may not fully comply with all the details of regulatory standards in the place where they are sold. If goods are acceptable for sale in one State or Territory, then there is no reason why they should not be sold anywhere in Australia.

It was not so long ago that it was virtually impossible to market cooking margarine nationally in one package. Western Australia required margarine to be packed in cube tubs whereas the familiar round tub was acceptable everywhere else. Mutual recognition will mean producers in Australia will only have to ensure that their products comply with the laws in the place of production. If they do so, then they will be free to distribute and sell their products throughout Australia without being subjected to further testing or assessment of their product. This ensures a national market for those products. Similarly, goods manufactured or produced overseas which comply with the relevant standards in the jurisdiction through which they are imported will be able to be sold in any jurisdiction.

The second principle is that if a person is registered to carry out an occupation in one State or Territory, then he or she should be able to be registered and carry on the equivalent occupation in any other State or Territory. If someone is assessed to be good enough to practise a profession or an occupation in one State or Territory, then they should be able to do so anywhere in Australia. A person who is registered in one jurisdiction will only need to give notice, including evidence of their home registration, to the relevant registration authority in another jurisdiction to be entitled immediately to commence practice in an equivalent occupation in that second State or Territory. No additional assessment will be undertaken by the local registration or licensing body to assess the person's capabilities or expertise. Local registration authorities will be required to accept the judgment of their interstate counterparts of a person's educational qualifications, experience, character or fitness to practise. I stress that the occupations a person seeks to move between from one State to another have to be substantially equivalent and have to be subject to statutory registration arrangements. I am sure that everyone would agree that in Australia the existing regulatory arrangements of each State or Territory generally provide a satisfactory set of standards.

Thus, on implementation of mutual recognition, no jurisdiction will suddenly be flooded with products that are inherently dangerous, unsafe or unhealthy; nor will there be an influx of inadequately qualified practitioners in registered occupations.

In an innovative move, the States and Territories have agreed to empower the Commonwealth to pass a single Act which will override any State or Territory Acts or regulations that are inconsistent with the mutual recognition principles as defined in the Commonwealth Act. The States and Territories will effectively cede power to one another through the mechanism of Commonwealth legislation.

Let me stress that the additional powers of the Commonwealth will be extremely limited. States and Territories are not granting extensive new powers to regulate goods and occupations. The Commonwealth has been empowered to pass a single piece of legislation, namely the Mutual Recognition Act 1992. Amendments to this legislation will require unanimous agreement among all participating jurisdictions. There will be no new powers for the Commonwealth to unilaterally establish new standards or controls. Under the terms of the Intergovernmental Agreement on Mutual Recognition, which all heads of Government signed in May 1992, Commonwealth Ministers, like their State and Territory counterparts on ministerial councils, will be subject to the same controls and limits. A two-thirds majority vote of Ministers in support of a new standard will bind all the parties.

I will now explain the provisions of the Mutual Recognition (South Australia) Bill in greater detail. As I have already explained, the South Australian Bill will adopt the Mutual Recognition Act 1992 of the Commonwealth, which is set out in the Schedule to the Mutual Recognition (South Australia) Bill 1992. Amendment of the Commonwealth Act will require approval by a designated person from each jurisdiction - for South Australia, this person is the Governor. The mutual recognition scheme is to last initially for five years, after which time the Governor has the power to terminate the adoption by proclamation. The mutual recognition principles in relation to goods and occupations are set down in clauses 9 to 11, for goods, and clause 17, for occupations, of the Schedule to the State legislation.

The legislation will not encroach on the ability of jurisdictions to impose standards for locally produced or imported goods nor for local people wishing to enter into an occupation.

Mutual recognition will not affect the ability of jurisdictions to regulate the operation of businesses or the conduct of persons registered in an occupation, nor is it intended to affect the registration of bodies corporate. Its focus is on the regulation of goods at the point of sale and regulation of the entry by registered persons into equivalent occupations in another State or Territory.

Laws that regulate the manner in which goods are sold such as laws restricting the sale of certain goods to minors - or the manner in which sellers conduct their businesses are explicitly exempted from mutual recognition. For occupations, the legislation is expressed to apply to individuals and occupations carried on by them. As I indicated earlier, mutual recognition is intended to encourage the development of appropriate uniform standards where these are considered necessary for reasons of protecting health and safety or preventing or minimising environmental pollution. Thus, provision is made for States and Territories to enact or declare certain goods or laws relating to goods to be exempt from mutual recognition on these grounds on a temporary basis, that is, up to 12 months. During that time, the intergovernmental agreement provides for the relevant ministerial council to consider the issue and make a determination on whether to develop and apply a uniform standard in the area under examination. Wherever possible, ministerial councils are to apply those standards commonly accepted in international trade.

In respect of occupations - the Commonwealth Administrative Appeals Tribunal will hear appeals against decisions of local registration authorities and will have the power to declare an occupation to be non-equivalent. This would occur in instances where there is no technical equivalence—in the sense that the activities that a practitioner is authorised to carry out under registration in two different jurisdictions are not substantially the same.

Declarations of non-equivalence may also be made by the Administrative Appeals Tribunal where there is technical equivalence but there are health, safety or pollution grounds for preventing practitioners from one State from carrying on that occupation in other States and Territories. Such declarations are to have effect for 12 months, during which time relevant State and Commonwealth Ministers have to agree on whether or not to develop and apply a uniform standard. If not, mutual recognition will apply.

The intergovernmental agreement also provides for a concerned State or Territory to refer a matter relating to a particular good or occupation to the appropriate ministerial council for a decision on whether or not to develop and apply a uniform standard. It is expected that where a ministerial council decides that a uniform standard is required in respect of a particular occupation. It will apply a national competency standard if such a standard is available. Heads of Government asked that the process of developing such standards be accelerated. It is hoped that national competency standards will be developed in the near future for all regulated occupations and professions. The legislation also provides for certain permanent exemptions in relation to goods. Heads of Government have agreed that the scheduled exemptions should be extremely limited, focussing on those products for which a national market is undesirable. Examples include pornography, firearms and other offensive weapons, gaming machines, and South Australia's container deposit legislation. Amendment of the exemptions schedules will require the unanimous agreement of all jurisdictions.

The mutual recognition principle in relation to goods is intended to operate by way of a defence. That is, it will be a defence to a prosecution for an offence against a law of a jurisdiction in relation to the sale of goods if the defendant expressly claims that the mutual recognition principle applies and establishes that the goods offered for sale had labels saying the goods were produced in or imported into another jurisdiction and he or she had no reasonable grounds for suspecting the goods were not produced in or imported into that other jurisdiction. It would then be up to the prosecution to rebut this or to say that the mutual recognition principle does not apply, because, for example, the goods did not comply with the requirements imposed by the law of the other jurisdiction.

The mutual recognition principle in relation to occupations will mean that a registered practitioner wishing to practise in another State can notify the local registration authority of his or her intention to seek registration in an equivalent occupation there. The local registration authority then has one month to process the application and to make a decision on whether or not to grant registration. Pending registration, the practitioner is entitled, once the notice is made and all necessary information provided, to commence practice immediately in that occupation, subject to the payment of fees and compliance with the various indemnity or insurance requirements in relation to that occupation. No other preconditions can be imposed on the

entitlement to commence practice. Conditions can be placed on the practitioner's registration in order to achieve equivalence with the condition of registration applying in the first jurisdiction. In addition, the interstate practitioner is immediately subject to the disciplinary requirements and other rules of conduct in the new jurisdiction applicable to local practitioners.

The Government is confident that participation in this legislative scheme will provide major long-term benefits for South Australia. The unnecessary costs for producers in accommodating minor differences in regulatory requirements of States and Territories in relation to goods will be removed. Genuine competition across State and Territories borders will be encouraged as a result of procedures having more ready access to the Australian market as a whole. Labour mobility will be enhanced with the removal of artificial barriers linked to registration and licensing laws. As a result, we will be able to make better use of our labour force skills.

Australia's international competitiveness will rise as producers capitalise on the economies of scale made possible by mutual recognition. This is a process that will occur over the medium to long term. More efficient standards brought about by competition among jurisdictions should result in community requirements being met at a lower overall cost to both producers and consumers. Wider consumer choice and a greater responsiveness to the needs and demands of consumers among producers and regulators should result.

At the same time, as I pointed out earlier, the mutual recognition scheme is designed to ensure that there is no compromise on standards in the important areas of health and safety and environmental protection.

This legislative scheme is an historic initiative aimed at overcoming the regulatory impediments to the creation of a truly national market in goods and services in this country. I am pleased to acknowledge the substantial contribution made by all heads of Government in fostering and promoting this important development. It is a fine example of what can be achieved when all Governments co-operate and work together in the national interest.

I commend the Bill to the House.

The provisions of the Bill are as follows:

Clause 1—Short title

The clause provides for the proposed Act to be cited as the Mutual Recognition (South Australia) Act 1993.

Clause 2—Commencement

The proposed Act is to commence on a proclaimed day.

Clause 3—Interpretation

The clause defines 'the Commonwealth Act' to mean the Mutual Recognition Act enacted by the Parliament of the Commonwealth.

Clause 4—Adoption of Commonwealth Act

The clause provides for the adoption of the Commonwealth Act under section 51(xxxvii) of the Commonwealth Constitution. The adoption will have effect for a period commencing on the day on which the State Act commences and ending on a day fixed by proclamation. The proclaimed day must be no earlier than the end of five years commencing on the date of commencement of the Commonwealth Act.

Clause 5—Reference of power to amend the Commonwealth Act

The clause refers certain matters to the Parliament of the Commonwealth, being the amendment of the Commonwealth Act (other than the Schedules to that Act), but only in terms which are approved by the designated person for each of the then participating jurisdictions. The designated person for a State is defined as the Governor, for the Australian Capital Territory is defined as the Chief Minister and for the Northern Territory is defined as the Administrator.

In a manner consistent with clause 4, the referral of those matters has effect from the commencement of the State Act until a day (occurring at least five years after the commencement of the Commonwealth Act) fixed by proclamation.

Clause 6 — Approval of amendments

The clause enables the Governor to approve the terms of amendments of the Commonwealth Act.

Clause 7 — Regulations for temporary exemptions for goods

The clause enables the Governor to make regulations for the purposes of section 15 of the Commonwealth Act (temporary exemptions).

The Hon. R.I. LUCAS secured the adjournment of the debate.

STATUTES AMENDMENT (FISHERIES) BILL

The House of Assembly requested a conference, at which it would be represented by five managers.

The Legislative Council agreed to a conference, to be held in the Legislative Council conference room at 2 p.m. on Wednesday 7 April, at which it would be represented by the Hons Peter Dunn, M.J. Elliott, K.T. Griffin, Carolyn Pickles and T.G. Roberts.

MENTAL HEALTH BILL

Adjourned debate on second reading.

Continued from 30 March. Page 1772.)

The Hon. M.J. ELLIOTT: This Bill is the last of three recent Bills that are designed to give greater dignity to those who suffer from a mental incapacity. The Bill is necessary to change the current Mental Health Act since the guardianship provisions now form the basis of a separate Bill, the Guardianship and Administration (Mental Capacity) Bill. Aside from this removal of the guardianship provisions from the current Act, there are only a few changes proposed in this legislation. The first is that the current Mental Health Review Tribunal is to be abolished and its functions are to be replaced by a special division of the Guardianship Board. Members who constitute the board for the purposes of hearing appeals arising from the Mental Health Act may not sit on the board for another purpose. I support this provision.

One of the other notable changes in this Bill is the provision for a second period of 21 day detention orders. I am generally in support of this extended period of assessment as it seems that proper assessment often is time consuming and complex. I also support the duty placed on directors of approved treatment centres under section 14 to make arrangements for the admission of a patient into another approved treatment centre when proper facilities do not exist for the treatment of the patient. I am pleased also that each director is under a duty to ensure that each patient is given a printed statement informing them of their legal lights at the commencement of their detention.

One of the major improvements as I see it in the Bill is the provision allowing a person to be conveyed to a medical practitioner or clinic for treatment in an ambulance rather than in a police car. The benefits of this addition are, I think, obvious. I have been told of situations in which patients have been escorted by a number of police officers in a police car, causing the patients conveyed and their relatives obvious distress. In fact, sometimes a patient in a very low stress state when put into a police car panics, and you end up with them in quite an aggravated state; and you have needless situations arising.

The ability to be conveyed in an ambulance allows the person involved greater dignity. Thus the patient is considered just that—a patient with an illness and not a criminal. What is of most concern to me is not what the Bill contains but what it does not. In this respect, I am referring to the issue of admissions and discharges. I am concerned that this Bill does not provide for any follow-up of people discharged from treatment centres. People may be able to be discharged, but they certainly will require further guidance. Is it merely assumed that the patient has family members who are able to cope? That is a question I would ask the Minister to address.

Also, what is the situation when a patient wishes to be admitted voluntarily but is told that there are not enough beds? This question must be addressed, particularly in light of the current trend towards deinstitutionalisation. I would appreciate the Minister's views on these matters. However, I indicate that I am in general in agreement with the contents of the Bill as it currently reads, and the Democrats will support it.

The Hon. R.J. RITSON secured the adjournment of the debate.

RACING (MISCELLANEOUS) AMENDMENT BILL

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

The Hon. BARBARA WIESE (Minister of Transport Development): 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.

This Bill proposes amendments to the Racing Act 1976, relating to a number of disparate matters. First, it proposes to allow an authorised racing club with the specific approval of the Minister, to conduct betting on its racecourse whereby both the bookmakers and the on-course totalisator are permitted to accept bets on various race meetings both local and interstate, without the club conducting a race meeting.

Secondly, the Bill proposes amendments to the composition of the Board of the TAB, alterations to the powers of control and direction of the Board by the Minister and to clarify the application of the Government Management and Employment Act to the Board.

Thirdly, the Bill proposes to allow on-course bookmakers to accept bets by telephone and facsimile transmission from persons off the course. In addition all reference to live hare coursing has been deleted.

The SAJC sought approval to operate an auditorium type betting facility when there is no race meeting in progress at the proposed location. The facility would not open on the majority of Sundays or Mondays, or days when a metropolitan greyhound or harness racing meeting (except Friday night) is scheduled. Telephone betting access will be available on days when a metropolitan galloping meeting is in progress.

The South Australian Jockey Club has held discussions with all sections of the galloping industry and those associations have given their support for the auditorium type betting facility.

Both the Harness Racing and Bookmakers Licensing Boards support the establishment of a betting auditorium type facility. The TAB and Greyhound Racing Board, however, are opposed to the proposal, primarily on the basis of their belief that all off-course betting should be conducted by the TAB.

The SAJC is currently negotiating with the Greyhound Racing Board to reimburse them for relinquishing their Tuesday and Thursday afternoon non-TAB meetings.

Taxation on bookmakers turnover is proposed to remain at the current rate. Totalisator turnover generated at the betting auditorium type facility will be combined with that from on-course, where applicable, to give a total amount invested. The total totalisator turnover will then be taxed at current rates. This measure prevents totalisator turnover being divided, on certain occasions, between the racecourse location and the auditorium facility, which would attract a lower tax liability.

It is proposed that the TAB Board comprise six members, three on the recommendation of the Minister and one from each controlling authority. This will achieve a better balance of interests represented on the Board. It is also proposed to enable the Minister to issue specific directions to the Board, to replace the current general powers of control and direction which are ambiguous and therefore open to legal interpretation and dispute. Any such direction given to the Board will be referred to in the TAB's Annual Report so as to enhance accountability to the Parliament and be a safeguard against inappropriate interference in the management of TAB.

In addition, it is proposed to update the reference to the Public Service Act in section 54 by substituting a reference to Part III of the Government Management and Employment Act. These proposed amendments emanate from the Government Management Board's investigation into TAB. All reference to live hare coursing has been deleted due to that type of activity being banned in 1985.

Telephone betting for bookmakers operating both on the racecourse and in an auditorium style betting facility is expected to generate additional turnover and reduce the incidence of SP betting.

The Bookmakers Licensing Board will issue permits for bookmakers to accept bets by telephone or facsimile transmission, whilst at the racecourse when a race meeting is in progress.

The Bookmakers Licensing Board will also have the power to issue permits, endorsed to accept telephone or facsimile bets, to an individual bookmaker or a group of licensed bookmakers to operate in an auditorium style betting facility. It is felt by issuing a permit to a group of licensed bookmakers, who have entered into an agreement approved by the Bookmakers Licensing Board to operate as one, that group, through their combined resources will be able to accept bigger bets than now is the case.

The operating parameters and guidelines will be established under the Bookmakers Licensing Board's Rules which are subject to Subordinate Legislation. These Rules will incorporate

various control aspects which will address the technical requirements necessary to automatically record bets and ensure security for taxation purposes. In addition, the Rules will provide for a minimum bet level of $250.00 or a minimum risk to the bookmaker of $2 000 per bet. The detailed explanation of the clauses is as follows.

Clause 1: Short title

Clause 2: Commencement

Clauses 1 and 2 are formal.

Clause 3: Amendment of s. 41—Rules of Board

Strikes out a provision dealing with the National Coursing Association of South Australia Inc. Coursing was made illegal by the Prevention of Cruelty to Animals Act 1985. This Bill removes all references to coursing from the principal Act.

Clause 4: Amendment of s. 44—Constitution of Board

Increases the number of members of the Totalisator Agency Board from five to six.

Clause 5: Amendment of s. 47—Quorum, etc.

Makes a consequential amendment to the number of members required for a quorum of the TAB.

Clause 6: Amendment of s. 52—Board subject to control and direction of Minister

Removes the word 'general' from the provision that gives the Minister control and direction of the TAB. The effect is that the Minister will be able to give the Board specific directions but new subsection (2) requires that the text of all directions by the Minister must be published in the Board's annual report.

Clause 7: Amendment of s. 54—Terms and conditions of employment by the Board

Makes it clear that it is Part III of the Government Management and Employment Act 1985 that does not apply to staff of the Board.

Clause 8: Substitution of ss. 63, 63a and 64

Replaces sections 63, 63a and 64 of the principal Act. The word 'auditorium' has been coined to refer to betting at a racecourse when a race meeting is not in progress. New section 64 provides for betting in these circumstances. Section 63, 63a and 64 have been rewritten as the best way of fitting in the new auditorium provision and in an attempt to simplify these provisions.

Clause 9: Repeal of s. 69a

Repeals section 69a which is redundant.

Clause 10: Amendment of s. 70—Application of percentage deductions

Requires the pooling of section 68 deductions where one of the racing clubs is conducting totalisator betting at an 'auditorium'. The amount remaining after paying the amount required under section 70 must be divided between the clubs involved so that a club that held a race meeting is not penalised by the fact of pooling.

Clause 11: Repeal of s. 81

Repeals section 81 of the principal Act. This section has been incorporated into new section 65 inserted by clause 8.

Clause 12: Amendment of s. 85—Interpretation

Makes amendments to the interpretation provision of Part IV. The term 'cash bet' is used in new section 115 inserted by clause 19. All the other amendments remove references to coursing.

Clause 13: Amendment of s. 100—Licences

Removes subsection (2) of section 100. This provision is contrary to section 117 of the Constitution. The new subsection inserted by this clause provides that a licence cannot be granted to a body corporate.

Clause 14: Amendment of s. 111—Permit required to accept bets

Makes an amendment that is consequential of section 112a (inserted by clause 16) which allows a permit to be granted to a group of bookmakers in certain circumstances.

Clause 15: Amendment of s.112—Permits for licensed bookmakers to bet on racecourses

Amends section 112 of the principal Act. Paragraph *(a)* makes it clear that the only circumstances in which a permit can be granted to a group of bookmakers are those referred to in section 112a. Paragraphs *(b)* and *(c)* make amendments consequential on the fact that betting may be conducted at a racecourse when a race meeting is not in progress.

Paragraph *(d)* provides for the acceptance of bets by telephone or facsimile transmission.

Clause 16: Repeal of s. 112a and substitution of ss. 112a and 112b

Inserts new section 112a which provides for betting with bookmakers at an 'auditorium'.

Clause 17: Amendment of s. 113—Operation of bookmakers on racecourses

Makes consequential changes to section 113 of the principal Act.

Clause 18: Amendment of s. 114—Payment to Board of percentage of money bet with bookmakers

Amends section 114 of the principal Act. New subsection (4a) makes it clear that bets made with a group of bookmakers will be taxed under section 114 as though they had been made with a single bookmaker. Paragraph *(b)* is consequential.

Clause 19: Substitution of s. 115

Replaces section 115 of the principal Act.

Clause 20: Amendment of s. 116—Recovery of amounts payable by bookmakers

Makes a consequential change.

Clause 21: Amendment of s. 117—Unlawful bookmaking

Amends section 117 of the principal Act. New subsection (1a) makes it an offence to accept bets without holding a permit. This is a logical corollary of an offence against subsection (1) of acting as a bookmaker without being licensed. Paragraph *(b)* and *(c)* are consequential.

Clause 22: Amendment of s.120—Board may give or authorise information as to betting

Amends section 120 of the principal Act to make it clear that a person who has an authority under section 120 is protected from prosecution for the offence against section 119.

Clause 23: Amendment of s. 124—Rules of Board

Increases the fine that can be imposed by rules made by the Board under section 124. A division 6 fine is $4 000.

The Hon. R.I. LUCAS secured the adjournment of the debate.

ADJOURNMENT

At 5.45 p.m. the Council adjourned until Tuesday 20 April at 2.15 p.m.