LEGISLATIVE COUNCIL

Wednesday 21 April 1993

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

STATUTES AMENDMENT (FISHERIES) BILL

The Hon. T.G. ROBERTS: I move:

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

Motion carried.

LEGISLATIVE REVIEW COMMITTEE

The Hon. M.S. FELEPPA brought up the committee's interim report on an inquiry into matters pertinent to South Australia's being able to obtain adequate, appropriate and affordable justice in and throughout the court system.

The Hon. M.S. FELEPPA brought up the committee's fifth report and moved:

That the report be read.

Motion carried.

JOINT COMMITTEE ON THE WORKERS REHABILITATION AND COMPENSATION SYSTEM

The Hon. T.G. ROBERTS brought up the committee's final report.

Report received.

QUESTION TIME

PUBLIC SECTOR REFORM

The Hon. R.I. LUCAS: I seek leave to make an explanation before asking the Minister of Public Sector Reform a question about Public Service cuts.

Leave granted.

The Hon. R.I. LUCAS: In recent weeks the Government has been preparing the public for imminent savage cuts in Public Service numbers. Confidential Treasury advice to the Government revealed by the Liberal Leader (Hon. Dean Brown) last week indicated a need to cut public sector numbers, in the view of Treasury, by about 3 000. The Public Service Association in the *Advertiser* of 7 April 1993 claimed that as many as 5 500 public servants would be cut and that 1 000 teacher positions were under threat.

Education Department sources have confirmed that the Minister of Education (Hon. Susan Lenehan), in discussions with senior officers of that department, has supported cuts of at least 300 teachers from our schools and the closing of further schools in South Australia. This is in addition to the cut of over 1 200 teachers and the closure of more than 50 schools in recent years by the State Labor Government.

Teachers have highlighted to me the hypocrisy of the Hon. Ms Lenehan and the Labor Government when they complain about the cuts in Public Service numbers by Premier Kennett in Victoria. The record shows that they have adopted the same policies, but over a longer period, here in South Australia. The Minister of Education has been justifying these cuts in discussions with her senior officers by stating that South Australia has the best teacher to student ratio in Australia and that we need to move towards the national average. My questions to the Minister of Public Sector Reform are:

1. Does the Minister believe that teacher numbers in South Australia are too high and should be cut so that the teacher student ratio is closer to the national average?

2. Does the Minister believe that we can deliver the same quality of public service in South Australia if Public Service numbers are cut by 3 000 in tomorrow's economic statement?

The Hon. C.J. SUMNER: The honourable member has referred to what he thinks might be in the economic statement tomorrow. I suggest that he wait and see what is in it and then, no doubt, he can engage in debate with the Government on the topic. I suggest that he do it on the basis of information that will be in the economic statement tomorrow. He can address the matter of teachers' numbers then, but as far as that is concerned that is a matter for the Minister of Education. I can only suggest to him that he wait for tomorrow's statement and I am sure that the Government will be happy to engage in the debate with him.

The Hon. K.T. GRIFFIN: Will the Attorney-General confirm that as part of the proposed economic statement package it was proposed that public sector reform would not be part of his ministerial responsibilities after the economic package has been delivered? Will he indicate whether or not public sector reform will be his continuing responsibility after that statement is made? If it does remain with the Attorney-General, will he confirm that removing public sector reform was contemplated, but the Attorney-General's anger caused the proposition to be dropped?

The Hon. C.J. SUMNER: Mr President, these people live in an absolute dream world. I am surprised that someone of the reputed intelligence of the Hon. Mr Griffin would even bother to ask the question. I can only assume that some dope in the Leader of the Opposition's office up on the second floor has picked up a rumour from somewhere and said, 'Oh, here Griffo, you're the dunce for the day. You're the patsy for today, Griffo. Will you have a bit of a go at this question?'

Members interjecting:

The Hon. C.J. SUMNER: How absolutely bizarre, Mr President. It is the first time I have heard the suggestion that this is going to occur. I get angry about a lot of things, but this was not one of them because it has never been raised with me, so there is nothing to get angry about. I am working very assiduously towards the presentation of a supplementary statement to the economic statement to be delivered a couple of weeks

from tomorrow which will deal with public sector reform. The Premier's statement tomorrow will deal with some aspects of public sector reform and I will amplify on them. I do not know where the honourable member gets his information from. I would suggest to the honourable member that he go back to his room, his law books and his files and get on with the job that he does best, which is looking at legislation, and stop being a patsy for the Hon. Mr Brown, the Leader of the Opposition in another place, asking stupid questions like the one that he has asked today.

HINDMARSH ISLAND BRIDGE

The Hon. DIANA LAIDLAW: I seek leave to make a brief explanation before asking the Minister of Transport Development a question about the Hindmarsh Island bridge.

Leave granted.

The Hon. DIANA LAIDLAW: The Minister, the Port Elliot and Goolwa council and the proponent of the Marine Goolwa Development, Binalong Pty Limited, recently signed a heads of agreement outlining the arrangements for financing the proposed $6.4 million bridge from Goolwa to Hindmarsh Island. I have not seen a copy of the heads of agreement although I sought one some three weeks ago, and I understand the Minister might be prepared to provide me with one shortly. However, correspondence from the Premier to the Leader of the Opposition reveals:

> The bridge will be funded by Government for an estimated initial outlay of $6.4 million. Recoupments of costs above $3 million together with interest at 10.5 per cent per annum are proposed to be made from Binalong and the council. Government has agreed to bear a very small risk of the cost of the bridge exceeding $7 million as management of the project is within Government control. The proposed recoupments from council are related to the amount of new development on the island that has been enabled by the bridge, and essentially amounts to $325 per annum indexed per allotment over 20 years with an option to pay lump sums in respect of allotments in lieu of annual contributions.

Since receipt of those details I have organised a computer model to determine both the number of new blocks that will have to be sold on Hindmarsh Island over 20 years, and the levy each new owner will have to pay over that period if the Government is to recoup its costs above $3 million, together with the interest of 10.5 per cent. The model reveals that 1 600 new blocks will have to be developed and sold on Hindmarsh Island over the next 15 years at a rate of 100 per year.

So, for the Government to recoup its costs for half of the bridge, Hindmarsh Island will have to cope with substantial new development—development that is effectively as big as the current township of Goolwa. Also, for the Government to recoup $3.4 million over 20 years, the model reveals that anyone who buys a block in the first year will find that their levy of $325 per annum indexed at 5 per cent per annum, as proposed by the Premier, will rise to $821 per annum in 20 years' time. Indeed, a person who buys a block in 10 years' time will find that their initial annual levy will be $504 rising to $821 in 10 years and $1 338 per annum in 20 years.

Real estate agents tell me that it will be difficult to sell blocks on Hindmarsh Island compared with elsewhere in the south coast area or, indeed, near the water anywhere in the State, let alone 1 600 blocks, when prospective buyers learn of the amount of the indexed levy that they will have to pay in order to help pay for the cost of the Hindmarsh Island bridge—an amount, incidentally, that is on top of their rates. I ask the Minister: when the Government prepared its calculations for recouping half the cost of the bridge—$3.4 million together with interest of 10.5 per cent per annum over 20 years, according to what the Premier told the Leader of the Opposition—from the sale of allotments offered by Binalong Pty Ltd and other developers on Hindmarsh Island, first, how many allotments did the Government determine would have to be sold each year and, secondly, what is the total number of allotments that the Government has determined will have to be developed in the next 20 years which, as I indicated earlier, is the period that, according to the Premier, the Government has set for recouping half the cost of the bridge?

The Hon. BARBARA WIESE: First, I am not in a position to confirm the accuracy of figures and assessments that have been given by the honourable member in her question, but no doubt someone will be able to provide appropriate information for me on that matter.

The Hon. Diana Laidlaw interjecting:

The PRESIDENT: Order! The honourable Minister.

The Hon. Diana Laidlaw: Did you sign the heads of agreement?

The Hon. BARBARA WIESE: Yes, I did, but I do not have it in front of me, and I am not able to confirm the accuracy of the information that you have provided to the Parliament. I would like to address a couple of points. First, the honourable member indicated in her opening remarks that some time ago she requested a copy of the agreement. As the honourable member would acknowledge, I have indicated that a copy of that agreement will be made available as soon as possible. It has not been provided thus far simply because the appropriate stages of concluding the agreement must be completed first and all parties given their copy of agreements and other things prior to other parties having access to such information. Hopefully, very shortly such a copy will be made available to the Hon. Ms Laidlaw. There is certainly no intention on the part of the Government, nor is there any need, to hide any information.

Extensive assessments have been made of the whole of life costs of the project. Those assessments were undertaken by independent consultants commissioned by the Department of Road Transport some time ago. According to all the assessments produced by those people the judgment is that even if at the end of the day the Government were left with the total cost of the bridge we would still be in front on the whole of life cost of providing it. However, as the honourable member indicates, as part of the terms of the agreement itself it is intended that about half the cost of the bridge will be provided by other parties.

As to the number of allotments that may have to be developed on Hindmarsh Island to finance the council's part of the cost, I understand that it is for the council to

determine how it meets its contribution. If it chooses to add to the rates of newly developed blocks on Hindmarsh Island, that might be one way by which a financial contribution will be made. It may choose some other method of raising the money, but that is really a matter for the council within the terms of the agreement, as I understand it. So as I recall, it is not an issue that needs to be considered by the Government: that is a matter for the council.

I point out to the honourable member that the Port Elliot and Goolwa council has unanimously and continuously supported the construction of this bridge, even in the light of the fact that a small number of local residents have expressed opposition to it. The council believes it is in the interests of the local community and in the interests of the development of its council area and has consistently supported the construction of the bridge, and continues to do so. It feels confident that it will be able to meet its share of the costs, and obviously we would hope that that can be achieved over whatever period is involved, and that may extend up to 20 years, as I understand it.

That is where the matter stands at present. I reiterate: even if for some reason or other the developer or the council were not in a position to provide half the cost of the bridge, the Government would still be in front on a whole of life cost of the bridge as compared with the alternative arrangements that would have to be made by the Government in order to provide an adequate ferry service.

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order!

The Hon. BARBARA WIESE: The decision taken by the Government in this matter is a sound decision. It was examined by numerous parties before it was taken. The only reason I take so much time outlining some of these matters is that, as we all know, we have on the Notice Paper a private member's motion to refer this matter to a parliamentary committee for examination which, I might say, was moved prior to any agreement being reached between the parties. That certainly makes me wonder exactly what this exercise is all about. It seems to me that it is much more about some sort of politicking that is going on amongst members of the Liberal Party than anything to do with a real concern about the development itself, that the Opposition would want to refer the project to a parliamentary committee for scrutiny before it even knew what the terms of the matter were. I certainly question the motives held by some people—

The Hon. Diana Laidlaw interjecting:

The PRESIDENT: Order!

The Hon. BARBARA WIESE: —who have pursued this matter. In specific response to the honourable member's question, I understand that, at the end of the day, it is a matter for council to determine how it will pay its contribution of the costs. But it has certainly considered the rating of properties as one of the issues that it is likely to pursue.

The Hon. DIANA LAIDLAW: Mr President, I ask a supplementary question: in addition to the other information that the Minister has promised to bring back to me about Government calculations on the recruitment costs, will she also provide me with the calculations on the whole of life costs?

The Hon. BARBARA WIESE: I am sure that information can be provided. If it is available I will provide it for the honourable member.

WOOL

The Hon. M.J. ELLIOTT: I seek leave to make an explanation before asking of the Attorney-General, representing the Premier, a question about the wool stockpile.

Leave granted.

The Hon. M.J. ELLIOTT: Australia currently has four million bales of wool sitting around in a storage stockpile, which is having a negative effect on wool sales and prices. It is having a major impact on the balance of trade and economies throughout South Australia, particularly regional economies such as Kangaroo Island, which are very reliant upon wool. The size of the stockpile needs to be addressed and many people to whom I have spoken are anxious that the Queensland Premier's view that the wool stockpile should be burnt would be the favoured solution. They argue that it is a waste in the worst extreme and that there are other options.

It goes without saying that from the stockpile sufficient backup quantities of each quality fibre must be retained so that supply is ensured to customers. It has been suggested to me that, to boost prices in the short term, releases from the stockpile for sale should be slowed in a deliberate fashion, to send a clear signal to our customers that we are serious about supporting our industry. It has also been suggested that a temporary quota system, perhaps around 85 per cent of the average of each farmer's production over the past five years, would slow down the amount of wool being added to the stockpile each season, with the quota varying depending on the market for each particular type of wool. Farmers could sell up to their quota and after that it would be a matter of individual judgement to reduce flock sizes or store the excess on farm.

To reduce the size of the stockpile it has also been suggested that alternative uses in Australia should be explored. Rather than simply burning it, we might consider uses such as housing insulation, which already is a minor use. It could even be used as a form of aid to Eastern European nations by way of reduced prices, with the proviso that in doing so legitimate sales were not affected. This would produce benefits for Australia in the long-term both in terms of goodwill and ensuring that potential customers remain in the business. My questions to the Minister are:

1. Does the South Australian Premier support the Queensland Premier's view that the wool stockpile should be burnt?

2. What options for addressing the wool stockpile question, if any, are supported by the State Premier?

3. Would the Premier consider supporting and recommending to the Federal Government the imposition of a temporary quota on producers and a slow down in sales from the stockpile?

The Hon. C.J. SUMNER: I doubt whether the Premier would support the proposition apparently put forward by the Premier of Queensland to burn the

stockpile. However, I will refer that question to him, together with the other questions the honourable member has asked, for a reply.

NICHOLLS CASE

The Hon. L.H. DAVIS: I seek leave to make an explanation before directing a question to the Attorney-General on the subject of court costs.

Leave granted.

The Hon. L.H. DAVIS: Yesterday in the Legislative Council the Attorney-General launched a vicious and premeditated attack on journalist Mr Chris Nicholls, who last week was found innocent of several charges but this week was gaoled for four months for contempt of court for refusing to provide details of the source of his information. The Attorney-General claimed:

> The other disgraceful aspect of this case is the fact that taxpayers paid for Nicholls' defence through the Australian Government Solicitor.

He went on to say:

> I should think that the taxpayers should be outraged that Nicholls has been defended by the Australian Government Solicitor. The local Director of Public Prosecutions and the head of the Attorney-General's Department came to me with their objection to this particular situation shortly after they found out about it.

Finally, the Attorney-General said:

> ... to have the Australian Government Solicitor acting for a defendant in a case like this is, I believe, unacceptable.

Is this the same Minister who four and a half years ago made a recommendation to Cabinet that the Labor Government of South Australia should pick up the tab for damages and costs, totalling $150 000, for the then Minister of Health, Dr John Cornwall? This massive amount had been incurred by Dr Cornwall in a defamation case brought against him by Dr Peter Humble, an orthopaedic surgeon. Dr Humble had, not surprisingly, taken action against Dr Cornwall after Dr Cornwall had called him a 'scurrilous fool', 'bloody minded', 'a robber baron', and 'irresponsible', among other things, during a 1984 press conference.

Members interjecting:

The PRESIDENT: Order!

The Hon. L.H. DAVIS: Acting Judge Bowen Pain, in handing down the judgment against Dr Cornwall, said that the Minister had vilified Dr Humble's character in a way that could only be described as disgraceful. He said Dr Cornwall had displayed an 'arrogant, deceitful and unrelenting attitude' during the court case and that Dr Cornwall 'was a most unimpressive witness, he was guilty of prevarication, he was evasive, he was non-responsive and defensive'. He was 'an unsatisfactory witness'.

Members interjecting:

The PRESIDENT: Order!

The Hon. L.H. DAVIS: 'Generally speaking there has been little or no contrition on behalf of the defendant,' Acting Judge Bowen Pain said. Acting Judge Bowen Pain concluded by saying:

> It is clear that Dr Humble and his wife have both been more deeply hurt by these events than could ever be adequately compensated by an award of damages.

The $80 000 damages was the highest defamation damages ever awarded in South Australia. With costs of an estimated $70 000, the Government admitted that the payout would be around $150 000. In a poll on one television station, 99 per cent of callers said the State Government should not pay this $150 000. The vote was 720 'No' and only six 'Yes'—the backbenchers in the Legislative Council on the Labor side! Not one of 30 people surveyed in Rundle Mall by the *Advertiser* believed that the Labor Government should pay Dr Cornwall's damages and legal costs. There were letters to the editors and talk-back programs against it, and protests from the Australian Medical Association about the Government picking up the tab for this reckless defamation.

In defending the situation in the Legislative Council on 4 August 1988 the same Attorney-General that we heard from yesterday, Mr Sumner, said that 'the decision to indemnify Dr Cornwall against his costs and damages was not the decision of the Crown Solicitor; it was my decision. I made the recommendation to Cabinet.' My questions to the Attorney-General are:

1. How can the Attorney-General justify his utter hypocrisy yesterday in using the privilege of Parliament to launch a vicious, premeditated attack against Mr Nicholls and the fact that his costs were paid for by the Australian Government, when in the Cornwall case he so readily acquiesced to spending $150 000 of taxpayers' money to cover Dr Cornwall's damages and costs?

2. In view of the fact that in the Nicholls' case the head of the Attorney-General's Department objected to Nicholls receiving Australian Government assistance for his costs, why was no objection raised in the case of Dr Cornwall when clearly his defamatory remarks were not something expected of him in the performance of his ministerial duties?

The Hon. C.J. SUMNER: The honourable member has talked about a vicious and premeditated attack. All I want the honourable member to do is reflect on what I said yesterday and, if he wants to argue about what I said regarding the principles relating to journalists' sources, let him come into the House and argue about them. I am perfectly happy to have a debate with him about those issues anywhere, and at any time. I would be very interested to see if he is putting the proposition to this House and to the people of South Australia that journalists should have an absolute right, no matter what the circumstances, to refuse to disclose their sources to the courts of this land so that those courts cannot ascertain the truth about a matter and so that those courts cannot determine properly the guilt or innocence of an individual. If that is the proposition the honourable member is putting to the Parliament, the public and the people of South Australia, well, fine, you put it and I am prepared to debate it with you anywhere, any time. I was quite concerned yesterday, and I think justifiably, to put that issue very squarely on the public record, which I did.

The second issue that I was concerned to ensure got into the public arena was the finding that Mr Nicholls

had breached the journalists' code of ethics in two important respects: a decision made by the Australian Journalists Association about three years ago—

The Hon. L.H. Davis: He is appealing.

The Hon. C.J. SUMNER: He is not appealing it and he has not appealed it—that is, as I understand it, from the AJA or the media alliance. I was concerned to put on the record the fact that Mr Nicholls had been found guilty of unprofessional conduct by his peers, by the Australian Journalists Association. It is interesting to note that the story—apart from ABC television, which carried some of that case—about Mr Nicholls' unprofessional conduct as a journalist has not appeared in the press in this State—certainly not in the daily *Advertiser,* and not—

Members interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: —in the interstate papers—

Members interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: —to the extent that it needs to be put into the public arena in order for the public to make up its mind about the situation. The full story about Mr Nicholls' charge and finding of guilt by the Australian Journalists Association has not found its way into the print media in this State, except for a two or three-line very general summary. What I was concerned to do, partly unsuccessfully but at least partially successfully, was to ensure that it was fair for the public of South Australia, when making up their mind about this issue and whether they ought to support Mr Nicholls' protestations about being gaoled for failing to reveal his source and for promoting himself as a journalist of credit and worthiness in this State, to be aware that Mr Nicholls was found guilty of what I regard, and I would think the Parliament would regard, as a very serious breach of the ethics of his profession. I make no apology for that—none whatsoever. The question of journalists' sources is important, and I was concerned to put my view on it. I have not heard any argument about it from the Hon. Mr Davis.

Secondly, the question of Mr Nicholls' previous offending against his own code of ethics is a very relevant factor in assessing his position in this case. The public should know about it, and I was concerned to ensure that they did. As to the honourable member's trying to draw some kind of parallel between the case of Dr Cornwall—

The Hon. L.H. Davis: You are not answering the question.

The Hon. C.J. SUMNER: I am quite happy to. I believe Dr Cornwall was a Minister in this Government some four or five years ago.

The Hon. L.H. Davis: He used to sit next to you.

The Hon. C.J. SUMNER: I know, but a week is a long time in politics and Dr Cornwall had not been in politics for very long. The honourable member may know that as a result of that defamation case Dr Cornwall retired from the ministry. Because of the findings in that case he retired from the ministry and subsequently retired from politics. Even though the costs and damages were paid by the Government, Dr Cornwall resigned from the ministry at that time, so he did suffer a significant—

Members interjecting:

The Hon. C.J. SUMNER: I will answer it, Mr President. So, there was a significant detriment to Dr Cornwall.

The Hon. L.H. Davis: You have been lassoed and slowly strangled.

The PRESIDENT: Order! The Council will come to order. Far too often people ask questions and are not prepared to listen to the answers. I give everybody a fair go and, if they are not happy, they can get up and ask another question. The honourable Attorney-General.

The Hon. C.J. SUMNER: Thank you, Mr President. I was hardly lassoed because the question was foreshadowed on ABC television last night, when Dr Cornwall got a reference. So, I would have to be pretty stupid to think that the Hon. Mr Davis would not come along and ask the question today. It was as predictable as any question I have heard from him, and there have been a few of those in the past.

It is odd that the Hon. Mr Davis' legal training still does not enable him to determine the difference between civil cases and criminal cases. I know it is a long time since the Hon. Mr Davis practised any law, but he did go to law school about the time that I was there, and the first text book he would have had, I think, was Glanville Williams' *Elements of Law.* One of the very first principles outlined in that text book is that there is a distinction—

The Hon. L.H. Davis: It's a glib answer.

The PRESIDENT: Order!

The Hon. C.J. SUMNER: It is not a glib answer: it is a very relevant answer, but there is a difference between the civil law and the criminal law. In this case, the statements that Dr Cornwall made were made in the course of his duties. There are now guidelines, which I have made available I think to the Hon. Mr Griffin, at least, but I have made available guidelines for the indemnity of Ministers in defamation cases, and those guidelines provide that Ministers are entitled to indemnity for defamation cases in certain circumstances. In particular, of course, it is a question of whether they were acting in the course of their duties. In the case of Mr Nicholls—

Members interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: Well, he was certainly acting in the course of his duties—

Members interjecting:

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

Members interjecting:

The Hon. C.J. SUMNER: He is not a Minister now and he was not a Minister for very long after it happened. The point I make is that there is a distinction between civil and criminal cases, and I do not—

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: Mr President, I seek a withdrawal and an apology from the honourable member for that statement.

The PRESIDENT: What was said? There has been a request for a withdrawal and an apology from the Hon. Mr Davis.

The Hon. C.J. SUMNER: For the accusation that I was a hypocrite. He has been repeating it throughout Question Time, and I seek an apology and a withdrawal. It is clearly unparliamentary.

Members interjecting:

The Hon. C.J. SUMNER: I would get them if I was outside the Parliament.

The PRESIDENT: The Hon. Mr Davis.

The Hon. L.H. DAVIS: I would point out—

The PRESIDENT: There has been a request for a withdrawal and an apology.

The Hon. L.H. DAVIS: In the question I asked, I said 'How can the Attorney-General justify his own hypocrisy?'

The PRESIDENT: The Attorney-General said he has been called a hypocrite by the honourable member, that he takes objection to it and seeks a withdrawal and an apology.

The Hon. L.H. DAVIS: I ask for the right to make a personal explanation.

The PRESIDENT: No, a withdrawal and an apology have been asked for. Is the honourable member prepared to withdraw?

The Hon. L.H. DAVIS: I will withdraw in the circumstances, out of deference to the Chair, but, in so doing, I should respectfully point out—

The PRESIDENT: And apologise.

The Hon. L.H. DAVIS: —that I have already used the word in the question that I asked the Minister. I will apologise also, but the point I make is that I have already made that statement in my question.

The Hon. C.J. SUMNER: Thank you, Mr President. I am pleased that the honourable member has seen fit to withdraw that remark and to apologise, and I am pleased to see that he has seen the error of his ways. There is no question of hypocrisy involved in this. The fact of the matter is that there is a distinction between—

The Hon. L.H. Davis interjecting:

The Hon. C.J. SUMNER: Am I going to be allowed to answer the question or not?

The PRESIDENT: I have called for order. What gets me is that honourable members want questions and answers: it appears that they only want questions and no answers on the subjects that they do not like. If honourable members are not prepared to listen, they should not bother asking the question. I am giving everyone a fair go, and the Hon. Ms Laidlaw and the Hon. Mr Davis consistently interject after they have asked a question. I ask them to respect the forms of the Council and try to hear the answer in silence. If they are not happy, they may ask another question or a supplementary question. Nobody has been denied the right to put a question in the Council. The honourable Attorney.

The Hon. C.J. SUMNER: There is a distinction, and I do not know of circumstances generally where indemnities of this kind are given for criminal offences, although there may be some exceptions to that. I find the fact that taxpayers through the ABC and the Australian Government Solicitor have funded a defence by a journalist of criminal charges, and quite serious criminal charges, to be something that is not normally done and I do not believe was appropriate in this case. There is a clear distinction between a criminal charge and civil proceedings, and that, I should have thought, would be obvious to members.

There is a distinction, and I do not know generally of circumstances where the taxpayers of South Australia through this employer, the ABC, pay for the defence of criminal charges. But in this case, they did it. It may be that what I said yesterday was not fully understood, but the other objection to the situation was not the fact that the taxpayers were paying it, although that was certainly one of my objections about the matter—that I was paying for it and you and others were paying for it through the ABC's defending this unethical journalist—but that it was inappropriate for the Australian Government Solicitor to act for a private individual, the journalist, in these circumstances.

That, I think, is a matter that does need to be taken up and clarified; that is, you have in effect another Government, the Commonwealth Government in this case, paying for the defence of an individual on a criminal charge and using the services of the Australian Government Solicitor to conduct that defence.

Problems arise there about relationships between Governments but also questions of legal professional privilege and the like, which I do not think have been thought through by the Australian Government Solicitor. They are the issues that need to be taken up, so there are three issues: first, it was a criminal offence; secondly, the Australian Government Solicitor acted and the taxpayer paid the costs of this criminal defence through the ABC and through the Australian Government Solicitor; and, thirdly, there are legal and technical problems with the Australian Government Solicitor acting for an individual in these circumstances.

HOUSING TRUST WAITING LISTS

The Hon. J.C. BURDETT: I seek leave to make a brief explanation before asking the Minister representing the Minister of Housing a question about Housing Trust waiting lists.

Leave granted.

The Hon. J.C. BURDETT: I refer to the article on the front page of the *City Messenger* of Tuesday 6 April, under the heading 'The waiting game', which states:

> More than 42 000 people are waiting for accommodation as the SA Housing Trust finds it impossible to answer the increasing cries for help. Yet a July 1992 report revealed that more than 100 Housing Trust staff, including management personnel earning more than $55 000 a year, were living in trust accommodation. Unlike other States, SA residents can apply for trust homes regardless of their income, so long as they do not own any property. In 1992-93 the trust's waiting list fell by only 733. It is now only 1 643 away below its all time peak of 44 430 in 1987.

I also refer on the same page of the same paper to the heading "Trust has lost compassion," says ex-Housing Minister', which states:

> The Housing Trust has turned its back on the needy and lost compassion in its bid to improve its image and address debt problems, says former Housing Minister and Napier MP Terry Hemmings.

My questions to the Minister are:

1. What is the present waiting list for Housing Trust accommodation?

2. How many Housing Trust staff are living in Housing Trust accommodation?

3. How many Housing Trust homes are occupied by management personnel earning more than $55 000 per annum?

The Hon. BARBARA WIESE: On behalf of the Minister for the Arts and Cultural Heritage, I will have the honourable member's question referred to my colleague in another place and a reply provided as promptly as possible.

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 the State Bank.

Leave granted.

The Hon. J.F. STEFANI: I have been informed that during the pilots dispute, at an executive committee meeting of the State Bank, senior managers of the State Bank Group resolved that it was appropriate to consider the available options regarding the charter of private jets for executive travel.

I have been further advised that at another meeting of the executive committee held at a later date the executives of the bank considered the costs arising from the involvement by the bank group in the Formula 1 Grand Prix. I am informed that at one stage both Beneficial Finance and the State Bank hired separate corporate boxes for clients' entertainment at sporting fixtures. My questions are:

1. Will the Treasurer advise if the State Bank group hired private jets or planes at any time, and, more particularly, during the pilots' strike? If so, what were the costs associated with the charter of private planes?

2. Will the Treasurer advise Parliament of the amounts expended by the State Bank group in connection with the Formula One Grand Prix, including the hire of corporate boxes, entertainment of clients, food, beverage, accommodation and other expenses for the years 1990-91, 1991-92 and 1992-93, and will the Treasurer further advise the estimated costs for 1993-94?

The Hon. C.J. SUMNER: I will see whether that information is available.

DRIVER TRAINING

The Hon. I. GILFILLAN: I seek leave to make an explanation before asking the Minister of Transport Development questions relating to driver licensing.

Leave granted.

The Hon. I. GILFILLAN: Mr President, Monday of this week saw a substantial change in the method of licensing drivers in South Australia, and in a recent article of the *Public Service Review* dated April 1993 some questions and concerns are raised about this change from a totally Government Department of Road Transport controlled system to one in which private licence examiners are involved, which is VORT (Vehicle on Road Testing), and in the article a couple of points were raised by the secretary of the PSA in regard to this matter. She refers to the issue of a change to privatisation and using private driving teachers for examination. The article states:

> 'We are not satisfied that this issue has had the community discussion it deserves,' said Jan McMahon. 'The potential for corruption, the possible impact on insurance and health costs and the sheer costs to those wishing to get a drivers licence requires more widespread community debate.'

The article further states:

> Serious matters have been raised with DRT, such as the lack of consultation on occupational health and safety issues pertaining to the introduction of VORT, as well as on road testing matters which are lowering testing standards according to driver development officers... The officers involved had genuine professional concerns about the general deskilling of driving skills. 'The use of simple sequences and set test routes would be a bit like training monkeys,' said one DDO. 'The test would be a far less comprehensive test of vehicle handling skills. There would be no three point turns, no reversing and parking would no longer be compulsory.' The DDOs, had demonstrated a willingness to be flexible by agreeing to the introduction of the log book accreditation system for private instructors.

I understand this is quite an exhaustive procedure of 24 particular lessons or instructions and is generally accepted as being a reliable method of testing and licensing with little scope for abuse, although it would and could be administered by driving instructors in private practice.

However, in what I would describe as the *ad hoc* test of authorisation which tests the driving ability of an applicant in one test period, driving instructors in private practice will examine applicants who have been prepared by one of their peers. They cannot, as I understand it, actually examine their own student, but they can, and it is expected that they will, examine someone who has been prepared by one of their fellow driving instructors. I share their serious concern about this authorisation process because of previous incidents—and this has been quoted to me—of intimidation and even death threats which are levelled at instructors to try to ensure the granting of a licence.

There is also the scope for deals to be struck between driving instructors to go easy on each other's clients. Obviously, the 'you scratch my back/I scratch yours' routine is possible in these circumstances. I ask the Minister:

1. What safeguards has she put in place to prevent the potential for intimidation, deals and/or shoddy standards becoming part of the driver's licence allocation in South Australia, particularly through this authorisation method?

2. Were the department staff consulted in the development of the new procedures? Do they approve?

3. Were the private driving instructors consulted in the development of the new procedures (and I mean not just the head of their association but the body of driving instructors)? Do they approve of them? Are they confident that they can properly fulfil the licensing requirements?

The Hon. BARBARA WIESE: I have answered a question about this scheme in Parliament before, and at that time I outlined some of the detail relating to the development of these proposals which have now been put

in place. I want to say from the outset that these proposals are not new. They have been developed in the Public Service over the past two years at least. The staff of the Department of Road Transport were involved in the development of the schemes. I announced that these schemes would come into place in April this year at a function which was held in October of last year, so there has been considerable publicity for the introduction of the scheme. The association which represents private driving instructors has also been involved with the development of the scheme.

In spite of the efforts that were made to consult with relevant individuals and parties, it came to my attention some time ago that the Public Service Association had its own concerns about the matter, and had consulted with some of the employees of the Department of Road Transport who would be involved in the administration of this new scheme. They raised with the management of the Department of Road Transport, and ultimately with me, at a meeting that I had with them two or three weeks ago, a range of concerns that they had after there had been industrial action taken, whereby the Public Service Association put bans on the Department of Road Transport managers having access to their own staff. This prevented discussions taking place between management and staff on some of those issues that have been raised by them and by the Public Service Association that they felt still required resolution. To cut a long story short, agreement has now been reached on the matters that were of concern to the work force in the Department of Road Transport.

The Hon. I. Gilfillan: Is that since the publication of this article in the *Public Service Review?*

The Hon. BARBARA WIESE: Yes. As I understand it that story was published prior to the agreement being reached late last week, and it has been agreed that certain monitoring provisions be put in place at the request of staff to ensure that the scheme develops in an orderly way and that the sort of concerns they had for potential fraud are monitored appropriately. I should say, with respect to that question relating to fraud amongst people in the private sector, that in the development of this scheme there has been a very extensive audit trail established with the assistance of the experts in the public sector fraud squad, or whatever the appropriate name of that organisation is.

The department is quite confident that the extensive mechanisms that have been put in place will alert it to any malpractice, should that emerge. I believe that the concerns that were expressed by people about the potential for fraud were in some ways more a manifestation of concerns held by individual staff members that the whole of this function of Government might become a private sector function rather than a Government function and that their job might be in jeopardy. They have been assured that that will not be so. They will be working in partnership with the people in the private sector. As I said, there will be extensive checks and balances, which will ensure that the scheme works effectively without the sorts of problems that have been suggested, but other methods of measuring those have been put in place as well.

MEMBER'S LEAVE

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

That four weeks' leave of absence be granted to the Hon. J. C. Irwin on account of family illness.

Motion carried.

MARINE POLLUTION

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

That the regulations under the Marine Environment Protection Act 1990 concerning Variation (Interpretation Business), made on 25 February 1993 and laid on the table of this Council on 2 March 1993, be disallowed.

The important effect of these regulations which is causing me concern is that we will find certain activities—in particular, aquiculture activities—being exempted from the Marine Environment Protection Act. We have a rapidly growing aquiculture industry in South Australia, and in relation to the marine environment perhaps the most important two at this stage are oysters and tuna. These industries together with others that may be developed—and there are a number of real possibilities—would all be exempted from the State's marine pollution laws. It is my understanding that when this matter was being considered it was raised with the Marine Environment Protection Committee and that its advice to the Government was that these activities should not be exempted. These regulations have the potential to put marine environment in areas such as Coffin Bay and the sea off Port Lincoln at great risk, and I believe that it is against the long-term interests of aquiculture itself.

It must be acknowledged that tuna and oyster operations have the potential to adversely affect and impact on the marine environment if they are not adequately monitored. I have been told that in North American waters where a great deal of salmon farming is carried out there has been experience of significant environmental change relating to that activity. In particular, the nutrient balance has been changed in the local waters, and one consequence of this has been the production of toxic algal blooms. So far, South Australia has had limited experience of marine algal blooms. We have had some in near urban waters—for instance, in the reaches of the Port River—but it was not that long ago when there was a significant algal bloom outbreak in the Gulf St Vincent. Algal blooms are still not well understood, but we know that one of the major contributing factors is the presence of high levels of nutrients.

When a large number of fish in an aquiculture situation are being supplied with food, quite clearly the nutrient level in that localised area will be increased. For example, tuna normally roam far and wide: they are migratory fish and do not normally stay in one area for long. Now tuna are being kept in pens in one area and their food is brought to them. A relatively small number of pens are in use at the moment but literally thousands of tonnes of pilchards are being taken to those small sites to be used as food. While some of that is converted to tuna meat as the animals grow, a great deal of it is lost,

and that will cause significant nutrient increase in those local areas.

I am not producing an argument against aquiculture. In fact, aquiculture and the farming of tuna have been the response in recognition of the fact that tuna populations are in danger, that we are far better off catching a relatively small number of tuna and sizing them up than fishing the wild stocks to extinction, and that we are getting a good economic return from a relatively low environmental impact. So, I make quite plain that I am not opposed to aquiculture. In fact, I can see that it produces benefits both economic and environmental. That can also be true of any other fish that we care to farm, including oysters at Coffin Bay and other sites. Not only do we have problems with the impact on nutrient balance but there is also the need to use chemicals. For instance, parasite control can become a problem. If animals are kept penned up in one area, we have the potential for an increase in parasite numbers because the animals reinfect each other more readily if they remain in one place. So we then have to start using chemicals for parasite control, and once again there is the potential for ecological effects. Whilst we may target specific species, the parasites that affect the various fish and shellfish, these chemicals will have impact on non-target species as well.

The Marine Environment Protection Act has been acclaimed as—and I believe it is—one of the best pieces of environmental legislation to come out of South Australia. Much of the proposed Environment Protection Act is modelled on the Marine Environment Protection Act. It seeks to stop all forms of marine environment pollution and to license those persons who might pollute in any way, so that such pollution can be controlled and minimised. As I understand it, quite trivial, if you like, polluters of the marine environment are being required to be licensed. For example, some swimming pools draw their water from the sea and pump it directly back, so that the water is really not polluted at all, yet they are required to be licensed. Here we have an activity which is already a significant one in South Australia—and in future years I expect and, I might add, I hope that it will grow much larger—and which has the potential to be a significant polluter if it is not properly monitored. I cannot see why this one industry should be granted an exemption that is not available to any other industry which has the potential to pollute the marine environment.

For the sake of consistency, we should be expecting this industry to obey all the rules that are obeyed by all others. I would argue that the proper monitoring is not only in the long term best interests of the State, as is the proper monitoring of all potential marine pollution, but it is also in the long-term interests of aquaculturists themselves because, if they end up dirtying their own nest, they will be the losers. When I say that, it might just be the activities of one or two operators who are not doing the right thing and that might impact on others. In talking about doing the wrong thing, it may not even be by intent. It may be that without adequate monitoring we are not aware of impacts that are occurring.

Finally, one of the major beneficiaries of the Marine Environment Protection Act are fishermen and aquaculturists and the Act makes sure that other industries do not dirty their water. If they expect everyone else to look after them, then they should expect to comply with the same laws with which all other industries comply. I urge the Council to support the disallowance of the regulations.

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

PLANNING REGULATIONS

Adjourned debate on motion of Hon. Bernice Pfitzner:

That the regulations made under the Planning Act 1982 concerning Development Controls (Local Government), made on 17 December 1992, and laid on the table of this Council on 9 February 1993, be disallowed.

(Continued from 24 March. Page 1652.)

The Hon. M.J. ELLIOTT: I rise to support this motion with an incredible and overwhelming feeling of *deja vu* and exasperation. In March 1991—just over two years ago—I supported a virtually identical motion aimed at disallowing virtually identical changes to the Planning Act regulations. How far have we travelled since then? Despite the Planning Review and *2020 Vision,* this Government is still trying to pull the same tricks as it did two years ago. The changes it is after involve schedules 5 and 7. These are the schedules which stipulate under what circumstances the State becomes involved in the planning approval process, either to review applications and merely provide advice to the planning authority or to assume the role of the planning authority.

I would like to consider why these schedules were included in the Act. Why was it considered necessary for the State to become involved in certain planning decisions? The developments listed in these schedules tend to be ones which, if allowed to proceed, will have implications beyond the boundaries of the planning authority's jurisdiction. The State's population beyond the inhabitants who elect the local government body, which is the planning authority, have an interest in the area for environmental, cultural or aesthetic reasons. This is either, as in the case of the hills face zone, visual impact or, as in the case of the Murray River fringe, the coastal zones and the Mount Lofty Ranges watershed area, an environmental impact relating specifically to water quality; or, as in the case of the Flinders Ranges, environmental class A and B areas, a combination of cultural, aesthetic and environmental impacts.

It is beyond my comprehension that the Government should want to leave important development decisions in areas of State significance to a local government body elected and representing only that local area. There is no requirement for local government to think of the State significance of its decisions, because its jurisdiction is only its local area. That is not a criticism, just a statement of fact. But there are other reasons for State involvement and one of the most important when it comes to the consideration of major projects is the availability of adequate expertise and resources to assess the proposal. This is the role the State played under schedule 5 although, as we have already heard, the track

record of local government in heeding advice provided by the experts is not good. That should be a huge signpost pointing to the need for the expansion of schedule 7, where the planning decision is also made by the State. Yet we have a Government now wanting not only to remove the situations in which councils must seek assistance and advice but also to hand over absolute decisions to local government without any reference to or advice from anyone.

I said that it is almost beyond my comprehension that the Government would want to do this, but past observation of Government manipulation of the planning process makes the motives for these changes clear. It will make it easier for the Government to impose its priorities, political imperatives and its pet projects and developers on a small, rural council for approval than it has been for it to do that with the State authority. Tandanya is a classic example of how the Government has been able to manipulate a small council.

That it should be seeking to do this now, with the Development Bill already in the Lower House—at the time of introduction—shows how little the mindset has changed. Despite public input into the Planning Review, the Development Bill, as many of us have realised, does not herald in a brand-new day of development harmony in the State. It does not propose a new way of doing things, a way which would rid us of the unnecessary black/white, right/wrong, the development or die brawls that we have been forced into over the past decade.

It will just continue the same tired old arguments. It is sad really: there was the potential for change and the Planning Review certainly heard from any group that wanted change. I oppose strongly the farming out of important planning decisions to local authorities, ones whose impact will be felt State-wide. There needs to be a central agency with the expertise, the vision and State-wide responsibility to provide an overview of the direction we are taking. I congratulate the Hon. Bernice Pfitzner for moving this disallowance, consistent with the successful disallowance motion two years ago supported by the Liberal Party and the Democrats. Once again the Democrats are supporting this motion for disallowance.

The Hon. T.G. ROBERTS secured the adjournment of the debate.

HINDMARSH ISLAND BRIDGE

Adjourned debate on motion of Hon. Diana Laidlaw:

That the Environment, Resources and Development Committee investigate and report on the decision by the State Government to fund a bridge from Goolwa to Hindmarsh Island (estimated to cost $6.4 million), and in particular—

1. Why funds have been allocated to this project ahead of other priorities as determined by the Department of Road Transport?

2. Why the Department of Premier and Cabinet has assumed responsibility for negotiating the financial details of the project, rather than the Department of Road Transport, as is normal practice for road construction initiatives?

3. The details of the financing arrangements, including the long term financial exposure for taxpayers of South Australia.

4. What benefits are to be derived by Binalong Pty Ltd from the building of the bridge, and the propriety of the Government's decision in conferring essentially private benefits at taxpayers' expense?

5. Why the timetable for calling tenders in August-September 1992, for work to commence in November 1992 and for work to be completed in November 1993, has not been met including the cost implications of the delay in commencing the project?

(Continued from 17 February. Page 1263.)

The Hon. L.H. DAVIS: I rise to support the motion moved by my colleague the Hon. Diana Laidlaw that the Joint Standing Committee on Environment, Resources and Development be given the power to investigate and report on a $6.4 million bridge from Goolwa to Hindmarsh Island, a bridge to be funded by the State Government, a bridge to nowhere, as it was originally described by my colleague in another place the Hon. Peter Arnold, and a bridge which raises more questions than answers given by the Government. The more one looks at this proposition the more suspicious one has to be. I first became interested in the transport links into Hindmarsh Island when I moved a motion of disallowance on some outrageous regulations in the Legislative Council some years ago, which were trying to do away with the priority use of the Hindmarsh Island ferry. The benefit which was given to residents of Hindmarsh Island was to be disbanded, I think on the whim of an angry ferry driver who, through his union contacts, had persuaded the Government to move a regulation to that effect.

The Hon. T. Crothers interjecting:

The Hon. L.H. DAVIS: Well, who pays the ferryman is, of course, not the question here today: it is who pays for the bridge and can we afford it? That stirred my interest in the matter and I have followed, as have some of my colleagues both here and in another place, the development of this extraordinary proposition that the Government fund a bridge for a private development. It is almost a role reversal. One would have thought that it is the sort of proposition that perhaps the Liberal Party might more readily have agreed to than the Labor Party.

However, I want to dissect the arguments and leave the Council in no doubt at all that there is only one way to vote on this motion now before us. Let us go back in time to the Tonkin Government, when obviously there was a lot of pressure and argument about the transport links across the Murray. My colleague the Hon. Peter Arnold, as a Minister in that Tonkin Government, obviously proposed that consideration be given to a bridge at Berri. It is a matter of public record that, in 1982, an environmental impact statement for a bridge over the River Murray was completed with a recommendation that the construction of a bridge across the River Murray should take place at or near Berri in the Riverland.

That was a decade ago in circumstances when the State was more financially advantaged than it is today. We are starting $3.1 billion behind the eight ball when we come to this debate on bridges and transport benefits in South Australia. Obviously, no Government can make a decision lightly on bridges and roads without giving the utmost consideration to the priorities and the needs of

each project. The priorities are more important today than ever before. But back in November 1991, my colleague in another place, the Hon. Peter Arnold, raised the very valid point that the draft environmental impact statement for the Hindmarsh Island Bridge Marina Extension and Waterfront Development of November 1989 stated:

> Replacement of the Hindmarsh Island ferry by a bridge cannot be justified when viewed from a whole river perspective. There are many other crossings currently serviced by ferries which would take priority on the basis of vehicle numbers and convenience to South Australian motorists. Two ferries now run at Berri, for example, where population growth and residential land development is also proceeding at a rapid pace.

Of course, that argument has been given weight by the very voluble and active Mayor of Berri, Margaret Evans, who for 30 years has been fighting for a bridge at Berri to service a pool of around 30 000 people. Yet, this Government has moved in mysterious ways its wonders to build a bridge at Hindmarsh Island. One has to ask 'Why?' The only way we will get an answer is not from the Minister in this Chamber, because she does not understand her portfolio anyway, but rather giving it to a committee of the Parliament, where the bipartisan approach of a standing committee will surely expose the truth behind what I think is a very shoddy and seedy decision.

So, let us look at the facts of this case. Originally, as my colleague the Hon. Diana Laidlaw said, the company called Binalong Pty Ltd, which is driving the initial development at Hindmarsh Island, was prepared to contribute to the cost of the bridge. The marine development proposed by Binalong Pty Ltd had as its first stage some 144 development sites. It has to be said that development sites do not sell quickly in a recessed market. In October 1991 only 37 of those 144 stage one allotments at the marina had been sold. The latest count in March 1993 showed that 88 per cent of those 144 allotments had been sold; that is, about 61 per cent, or about three-fifths, of those allotments had been sold and transferred.

One of reasons why more were sold in the past 12 to 18 months was due, of course, to a reduction in the price, which unfortunately would have meant a reduction in the margin for the developer, Binalong Pty Ltd. The principals of Binalong Pty Ltd alas have fallen on hard times. It is a matter of public record that the developer, Mr Tom Chapman, who is the key person in the development of the Marina Goolwa project, has had difficulties with finances. In March 1992, the *Advertiser* carried a report that Austrust Pty Ltd, a trustee company which is a fully owned subsidiary of SGIC, was trying to recover about $1 million allegedly owed by Mr Chapman and two of his companies. It was suggested in the article that two of the Chapman companies, Westdoman Pty Ltd, which had been placed in liquidation, and another company, Sleaford Pty Ltd, had not lodged annual returns as required by law for 1989-90 and 1990-91 that the companies had failed or refused to pay two mortgage loans and interest owing.

In fact, in December 1991 the *Advertiser* had revealed that a Mr and Mrs Bannister of Kingston in the South-East had sold land at Kingston and lent $422 000 to Westdoman in 1989, with security of a mortgage over the land, but that interest on this money had not been paid. In fact, unpaid interest had reached $102 000.
Although Mr Chapman had promised to refinance the deal nothing had happened. There were no allegations of impropriety; it was simply that Mr Chapman had struck severe financial difficulty which, of course, is not uncommon in these difficult times. Then, more recently in February 1993, the *Advertiser* carried a report that Mr Chapman's real estate agency, Daw Brothers, Horace Chapman and Co, had charges laid against them for allegedly failing to keep detailed records of all trust money received and disbursed and failing to have the trust account audited and lodged, as required, with the Commercial Tribunal.

Mr Chapman had been required to appear before the Commercial Tribunal and also had been the centre of investigation by the Department of Public and Consumer Affairs into trust account irregularities and investor matters. In fact, the Daw Brothers real estate agency licence had been surrendered in June 1991 and Mr Chapman's licence as a real estate agency manager had been suspended because he had not lodged the annual returns with the Registrar of the Commercial Tribunal as required. Mr Chapman is also being sued by the Salvation Army in the Supreme Court over the whereabouts of a $50 000 bequest.

It gives me no pleasure to raise those matters, but they are matters of public record, and we are people charged to protect the public interest and to ensure that moneys spent by the State Government are spent in the public interest. So, we are dealing with a situation where, quite clearly, Binalong Pty Ltd, with an enormous commitment and moneys tied up in the Goolwa marina development, has some financial difficulties, the extent of which I do not know.

One of the salient points in this debate must surely be that Binalong Pry Ltd has borrowed many millions of dollars from Beneficial Finance for another marina development at East Wellington on the River Murray and that there is also a tie-up with the State Bank.

The Hon. Diana Laidlaw: And Westpac.

The Hon. L.H. DAVIS: And Westpac Banking Corporation. But, as my colleague, the Hon. Diana Laidlaw, said in her introductory remarks, the fact cannot be ignored that there is a link between Binalong Pty Ltd and a Government related organisation, the State Bank, which has effectively subsumed Beneficial Finance. The question has to be asked, 'Is this deal for a bridge being done because Binalong Pry Ltd has a relationship with the State Bank?' Further questions must be asked: 'What would happen if this bridge did not proceed? Does that limit the ability of Binalong to continue to sell blocks of land on Hindmarsh Island?'

They are pertinent questions because if that proposition that I have just argued is correct—namely, that you can only continue to sell more and more blocks on Hindmarsh Island with a bridge to Hindmarsh Island—then surely it is valid to ask whether the Government was cognisant of that fact when it first decided to build the bridge and, if it was making that decision based on the fact that this was the only way in which you could develop allotments at Hindmarsh Island, was a proper environmental impact statement made? How many allotments are we talking about on

Hindmarsh Island? To what extent does it impact on the bird life of that very precious sanctuary down there? To what extent can that island cope with the water and the sewerage challenge which ultimately is associated with the development of perhaps as many as 1 400 or 1 500 allotments which could, at a peak time, be housing perhaps—

The Hon. Diana Laidlaw: Additional allotments.

The Hon. L.H. DAVIS: Additional allotments which could house as many as 5 000 people at a peak time. This is real hick stuff to me, and the whole deal smells like some of the very best deals that the State Bank itself entered into in the heady days of the late 1980s, because the more I look at this deal the more it smells. Just think of it: the Government jumping the Hindmarsh bridge, over all the other priority transport corridors and demands of other regions of South Australia, into number one slot, from a standing start.

To jump the Hindmarsh Bridge over the needs of the people at Berri—given, admittedly that that is a much bigger and more costly project that perhaps we cannot financially sustain—and the long standing demands of the Burra-Morgan Road that links two vital regions in the country, (the Murrylands region and the Mid North region, with their growing emphasis on tourism and their valuable transport corridor from New South Wales through South Australia to Western Australia) is amazing. You just cannot begin to argue that the Hindmarsh Bridge is a priority in those circumstances.

So, as my colleague has said, it is a very funny affair. I must argue that a project such as this, a $6.4 million bridge from Goolwa to Hindmarsh Island, should be looked at by the Environment, Resources and Development Committee because one of the problems that was created with the newly established parliamentary committee system last year was that the checks and balances which existed with the Public Works Committee have been removed. Whereas before any capital project worth $2 million or more would automatically be examined and approved by the Public Works Committee, that check is no longer there, and the Government of the day can pull a deal out of the blue and say, 'We will do this one next,' without any checks, cross examination of parliamentary scrutiny whatsoever.

That is a retrograde step and, the more I think about it, the more I believe that the Parliament should be amending that Environment, Resources and Development Committee legislation to ensure that it does have the power to cover those capital projects of $2 million or more. If ever there was a time when we needed this parliamentary scrutiny, it is now, given that the financial pips are squeaking, and given the debacle that is called State Bank and SGIC.

So, the Government, which has lost any pretence at even being able to spell the word 'accountable', let alone being able to understand what it means, must surely in this situation accept that there is a valid need for scrutiny of this project.

That is not only to see whether the cost is only $6.4 million, because I would raise my financial eyebrows at that suggestion—I believe it could be much more—but also, of course, to find out exactly what the circumstances were behind the decision that led the Government to commit itself to this project.

My colleague the Hon. Diana Laidlaw asked whether the bridge was necessary to meet current and projected traffic demand; whether the location of the bridge (adjacent to the historic wharf precinct) was desirable; and whether the development of the island should be aggressively promoted due to the ecological concerns associated with the Murray mouth and the wetlands. The EIS of 1989, as I said, raised the matter of the Berri bridge as a superior priority over the Hindmarsh Island bridge, but that EIS did not really investigate the environmental aspects satisfactorily, apart from acknowledging that it was a sensitive area for bird life, a sensitive waterway.

But there was no management plan proposed then. There has been no attempt to do one now. Certainly, the developers in their financial condition are unlikely to be able to put up the money, so we could have an ecological nightmare in one of the most precious areas in South Australia.

The Hon. Diana Laidlaw: The Government is looking at putting the Coorong under world heritage.

The Hon. L.H. DAVIS: Exactly. My colleague the Hon. Diana Laidlaw points out that the Government is presuming that the Coorong is so good that it should be part of the world heritage area, yet within kilometres of the Coorong committing to a project that will open up the prospect of maybe 5 000 additional people at a time living on Hindmarsh Island and perhaps having devastating consequences for the bird life of the area, together with the environmental degradation associated with that additional population. So, although initially Binalong had said that it would be capable of providing finance for the bridge, it quite clearly does not have the capacity to do that.

As far back as October 1991, when the Chapmans' financial position was becoming precarious, the Government would have known that that situation existed and nevertheless in October 1991 committed to paying for the bridge. In fact, on 6 October 1991 the then Premier (Hon. John Bannon), when launching the first stage of the marina development, said that the Government would commit $3 million, or half the cost of the $6 million bridge. But of course now, effectively, we have a situation where it is much more than that, as I will explain in a minute. In effect, taxpayers in South Australia are now funding the full cost of the bridge, whereas earlier Binalong had said that it would be paying for part of it.

The Government obviously has conceded that it will not get any money back out of Binalong; it will be relying on the local council to levy the owners of allotments on the island and will also be relying on a contribution from Binalong as it sells allotments on the island. So, let us have a look at the situation as it currently exists. Premier Lynn Arnold was drawn into this debate and, as recently as 13 March 1993, just a month ago, he responded to the Leader of the Opposition on this subject of the Hindmarsh Island bridge. He claims that the bridge will be funded by Government for an estimated initial outlay of $6.4 million. In other words, the Government is putting up the money. If it is putting up $6.4 million for the bridge over the next 12 months, and tenders have been called, then of course that is $6.4 million that is not available to be spent elsewhere

on projects that surely have a higher priority than this one.

The Premier then argued that recoupments of costs above $3 million, together with interest at 10.5 per cent, are proposed to be made from Binalong and the council and that the Government has agreed to bear a very small risk of the cost of the bridge exceeding $7 million as management of the project is within Government control. He stated that the proposed recoupments from council are related to the amount of new development on the island which has been enabled by the bridge, and which essentially amounts to $325 per annum indexed per allotment over 20 years with an option to pay lump sums in respect of allotments in lieu of annual contributions. Binalong remains liable for the total of outstanding contributions to the cost of the bridge over the course of the marina Goolwa project with council contributions serving to progressively diminish the debt.

The Premier stated that the effect of the heads of agreement with Binalong and the council is such that, even if Binalong demises and contributes nothing, expected council contributions would reduce the Government net outlays to $3 million as development proceeded on the island. Then the Government admits that, if Binalong went into liquidation, it is almost certain that the project would be sold in liquidation to the developer at a price that will enable the remaining development to be carried out profitably and yield returns to Government through the council.

Let me just reflect on those arguments that have been put in the letter from Premier Lynn Arnold. What he is saying is that $325 per annum indexed per allotment will be required over 20 years as a recoupment, and that will be collected by the council. In addition to that, obviously, the developer will be loading the cost of the land to any purchaser for a factor that will help to repay some of the moneys to the Government. But this presumes a certain level of sales over a period of time. Let me just take the Minister of Transport Development slowly through the situation.

Between October 1991 and March 1993, a period of 18 months, only 51 allotments were sold. Fifty-one allotments in 18 months represents about 34 a year. That of course was in a period when it was known that a bridge was likely to proceed, and during which time the price of allotments was reduced. At that level the number of allotments likely to be sold will increase only slowly over a period of time and, given that the cost of allotments will need to rise to take into account the levy for the bridge, which we have talked about at $325 per annum for each allotment, indexed by five per cent for a

20 year period, plus a loading for the price at which the developer now sells these allotments, would suggest that the sales of these allotments is not necessarily going to be fast.

My colleague the Hon. Diana Laidlaw, in a question today in the Legislative Council, made a point of the fact that she had had a projection done on the costs, and the number of blocks necessary to be sold to justify the Premier's calculation. In fact, the projections, which I am sure she would be quite happy to make available to the Minister of Transport for her assessment, suggest that 1 600 blocks have to be sold over a 16-year period to keep that rate at $325 per annum, adjusted annually by 5 per cent. That will give the Government the ability to recoup the moneys they say they will recoup in a 20-year period.

The central point to the argument is this: if the Hon. Diana Laidlaw's projections are correct, and 100 blocks have to be sold per annum over a 16-year period, it means 1 600 blocks have to be sold at a rate per annum for 16 years at three times the level that they have been sold at over the past three years. That is an extraordinary proposition. I do not believe it is feasible, and I think this is a shonk. I think it is really a financial shonk to suggest that 100 blocks of land can be sold each year on Hindmarsh Island and, in that way, arrive at the target which the Government is projecting in the letter which Lynn Arnold has made available within the last month.

Even if 100 blocks are sold, and that is the level we believe is necessary to be sold, the Liberal Party argument is very strong, simple and persuasive—that 1 600 blocks on Hindmarsh Island, which is a most sensitive ecological area, would create an additional 5 000 people, and where on God's earth has the State Government shown the people of South Australia that Hindmarsh Island is capable of supporting the extraordinary impact of 5 000 people, and that the bird life and the waterways of Hindmarsh Island will not be devastated by that additional number of people? Where has the Government shown that there is adequate water on Hindmarsh Island and that the sewerage needs of the island can be met? For this Government, on the one hand, to talk about world heritage for the Coorong, and on the other hand to run rampant on Hindmarsh Island with an additional 5 000 people is beyond belief.

One of the major points in this debate is how the Government can justify a $6.4 million bridge to nowhere when there are so many other higher priorities. I would hope that the Government will make public in the debate exactly what other priorities in regional South Australia have been passed over in favour of the Hindmarsh bridge, because it is well known that there is a priority list for money spent by the Department of Road Transport, and this project was not on the list. So, it is a financial shonk. I do not believe it can be justified in ecological terms, or in terms of priorities and needs of regional South Australia. I do not believe it can be justified given the fact that the private developer is not contributing directly to the project in any way and I do not believe it can be justified on the projections contained in a letter from the Premier, Lynn Arnold.

The great unanswered question is: what happens if this project continues to sell only 33 blocks a year, which may well be the case? As more allotments are sold, it could well be that the attraction of Hindmarsh Island falls away, because the very attraction of Hindmarsh Island is the solitude, the isolation, the ability to get away from it all, rather than having gutters locked on small allotments with people shoulder to shoulder on an island. That is in fact what people are trying to get away from. I think that the Government should, at the very least, make its projections public, and make available to the Hon. Diana Laidlaw, the Parliament and public, exactly what the various projections are assuming a certain number of blocks are sold over a period of 20 years, because on my sums if only 30 blocks are sold a year, as has been the

case over the past three years, that would blow the Government's projections right away. It would make it absolutely ludicrous to think that the Government would recover half the outlay over a period of 20 years. The more one thinks about the arguments the weaker they are.

I have a great feeling of uneasiness about this project, as does my colleague the Hon. Diana Laidlaw and I know that view is shared by other people who have studied the arguments both for and against the project. I cannot think of another bridge in South Australia which has been built in circumstances such as this, where the Government is building it effectively to bail out a developer. In many ways it can be argued that the Government is building a $6.4 million bridge for 81 allotments that have been sold to date, and in five years time that number might still be 200 or 300. In other words, it is spending $6.4 million on a very small number of people and, as I have argued, if it is a very large number of people I think the ecology and the other extraordinary impacts are going to be quite frightening on Hindmarsh Island, and the Liberal Party would resist this, anyway. So, whichever way you look at this argument the Government cannot win. The bird life and the waterways certainly will not be winners and the people who have been long-term residents of Hindmarsh Island certainly will not be winners, either. Ultimately, it comes down to political judgment, and the Government has exhibited none in this area. Therefore, I urge all members to support the motion that gives the Joint Standing Committee on Environment, Resources and Development the power to investigate and report on this bridge, which is really a bridge too far away.

The Hon. T.G. ROBERTS: The motion by the Hon. Di Laidlaw is to refer the matter of the Hindmarsh Island bridge to the Environment, Resources and Development Committee. I oppose that. I take the point that the Hon. Mr Davis raises in relation to the Parliament having the right to refer items to the committee for its investigation under its new constitution, if the Parliament sees that there is a need to investigate something of any substance. I do not deny the contribution that the honourable member has made makes out part of a case for that. I am sure that if he was aware of all the facts relating to the case he might see that that item itself could be handled in the normal way, that is, as a normal development project.

If members of the Opposition and the Democrats feel that more information was needed to be gathered in the normal way than the information that is now available generally following the signing of the agreement then that might allay some of their fears. Obviously, some of the fears put forward by the honourable member would not be allayed because those issues that he raised in relation to breaking the silence and solitude of people on the island cannot be denied as any development creates activity levels, and that is why the bridge is being built as opposed to using the outdated method of transportation by ferry.

The ferry is quaint, and I suppose that it has its own draw in terms of tourism support, but the area has grown to a point where a bridge is required in order to try and alleviate some of the problems associated with people living on the island and some of the questions that they have raised. Before the matter reached its present stage, there were a lot of complaints from residents on the island about not being able to get onto the ferry, particularly in school holidays. So, it is not a one-way story in relation to the ferry as some people would have you believe. There is resident and community support by the council for the building of a bridge. If members opposite want to put forward an argument based on the grounds outlined by the Hon. Mr Davis, perhaps the financing of the bridge is the matter we should consider in detail. Hopefully, after I have put onto the record some of the detail of what may happen, the Hon. Mr Davis' opposition may vanish, although I suspect that the matter probably will end up before the Environment, Resources and Development Committee for investigation.

In respect of many of the problems that have been raised, there are always two sides to the story: either to develop or not to develop. South Australia seems to have more than its fair share of the NIMBY syndrome—that is, not in my backyard; you can have development anywhere you like but you cannot have it anywhere near me. I expect that members on both sides of the Council run into this argument from time to time when development projects are raised. Other States do not seem to have these problems; they seem to be able to get their development projects up and running without much trouble. Perhaps if we do examine the financial aspects of the bridge, some of the matters that have been raised can be dealt with.

The Mayor and councillors of the District Council of Port Elliot and Goolwa, being the elected representatives of the local community, unanimously support the bridge. This support exists notwithstanding a small band of local opponents who are based on Hindmarsh Island where both the Mayor and a local councillor reside.

I point out that there are both supporters and opponents in Goolwa and Port Elliot who want to protect their own environment. Council support is based largely on the major economic benefits that the bridge would bring to the region. Under the terms of the planning approval, the marina Goolwa project can only proceed beyond the first stage of the development of 150 allotments to 850 allotments once the bridge is in place. Clearly, the eventual development of 850 allotments and the associated increase in local demand for goods and services presents significant growth in the local economy, something that South Australia dearly needs, as long as it is done sensibly—and I am sure that the Hon. Mr Gilfillan would agree with that. Moreover, the bridge would unlock the potential for further development on the island and the enhancement of the local economy, subject of course to due planning process.

No-one is arguing that any shortcuts in the planning processes should be taken. Sensitive development should take place on the island. I congratulate the Hon. Mr Davis for raising those sensitive issues concerning the sanctuary of birds and other matters that need to be taken into account when the development options are looked at, and the planning process will take those matters into account. It is understood that a small number of opponents to the bridge want no further development on the island, but a number of these are not residents of the

area. Only two of the current opponents of the bridge made a submission to the Binalong EIS process, which included the proposed provision of a bridge. Governments are continually attacked for failing to provide support for development projects and the business community generally. The Government is doing that in this case in a cost-effective way, and it is not apologetic about it.

The Hon. Ms Laidlaw proposed five key points in her motion, and I will deal with each of those in turn. The first of these concerns the question of why funds have been allocated to this project ahead of other priorities, as determined by the Department of Road Transport. The Hon. Mr Davis raised the issue of the ferry bridge and the fact that lost benefits from other proposals that may emanate out of transport corridors associated with bridges at other places along the river were not taken into account. The Riverland is part of my—

The Hon. L.H. Davis: Are you Chairman of the committee?

The Hon. T.G. ROBERTS: I am not the Chairman; I am a member of the Environment, Resources and Development Committee. As a duly elected Legislative Councillor for South Australia, I spend some time in the Riverland. One question that has been put to me by members of the media up there is why Goolwa is getting priority over Berri. This matter was also put to me by many members of the community in that region. As the honourable member has pointed out, they have been waiting for funds for a bridge for a long time.

The Hon. L.H. Davis interjecting:

The Hon. T.G. ROBERTS: I did not struggle too much to provide an answer. The bridge for Hindmarsh Island was not really a bridge over the Murray in relation to transport—

The Hon. Diana Laidlaw: They laughed at you.

The Hon. T.G. ROBERTS: No, they did not—and industrial development; it was a bridge to provide recreational and living facilities for people in that area. It had nothing to do with large transports or an economic or industrial development program associated with a bridge such as the one they are looking for. They were not looking for a $7 million bridge. The bridge at the Riverland would probably cost about $40 million to $50 million—a huge project. As I understand it, it has been on the drawing board at both Federal and State level for, as Mr Davis has pointed out, 10 years, but I think the proposal has been around for even longer than that, for some 15 years.

The people of the Riverland would like a bridge; there is no doubt about that. People are discussing two sites in the Riverland area, and those sites are being looked at. There is a certain amount of optimism in the area that a bridge will eventually be built and some of the inconvenience associated with the ferry will be overcome. I sympathise with that position, but this is not an either/or case. That is where the arguments associated with the Opposition's position can be interpreted as an exaggerated response to what could be regarded as a question that has not been able to be debated properly in the community as people are comparing two bridges that have no similarity other than that they cross a waterway. The Riverland bridge and the Hindmarsh Island bridge have been confused, and I am certain that that is deliberate. Many people say that the bridge at Hindmarsh Island has jumped up the list of priorities.

The Hon. L.H. Davis: Do you say that it has not?

The Hon. T.G. ROBERTS: All I am saying is that the two bridges have completely different historical and industrial backgrounds. The fact is that this project is seen as a priority for the people in that area. The comparison of the two bridges has been confused in the mind of the public to the point where the debate has got into the position where people are just not making the right comparisons in making their assessment.

The Hon. L.H. Davis: What should we be comparing it with?

The Hon. T.G. ROBERTS: I am not sure. You would have to compare it with another bridge, but another bridge of this type is not being built.

The Hon. L.H. Davis interjecting:

The Hon. T.G. ROBERTS: The Riverland people want a bridge over the river at a particular place, so in terms of priorities, if a bridge were built at, say, Morgan, I would say that that would have jumped the priority listing because the expectations of the people in the area have two particular sites picked out. The position of comparing the two bridges does not hold water. The argument put forward does not bear comparison and I think, for that reason alone, one can separate out the genuine concerns that people have. I would say that the concerns of the Hon. Peter Arnold are genuine, in that he has waited a long time, but mixing them up with the priorities of the Hindmarsh Island bridge, which, in comparison, is no more than a swing bridge when compared with the huge bridge that would be required at Berri, has confused the issue to the point where those confusions have sown seeds in people's minds in the Riverland and other places, and I think that that has been quite deliberate.

The opposition to the bridge in most people's minds is minimal. Indeed, if the Federal Government came out tomorrow and said that funds would be available for a bridge at Berri, for all those reasons that the Berri and Riverland people want it to be built, then I am sure that the comparison of timeframes and timetables would be forgotten instantly. Even if the Hindmarsh Island bridge did not go ahead, it would not mean that funds allocated to that bridge would necessarily be put into a Riverland or Berri bridge. We would have to wait for a greater commitment for funds from the Federal Government to be able to do that.

Initially, the Government will outlay $6.4 million for the construction of the bridge but, after planned recoupments from the District Council of Port Elliott and Goolwa and from Binalong Pty Ltd, we will have a net outlay of only $3 million on the bridge. This $3 million compares with the discounted whole of life costs of over $5 million for continuing the existing inadequate ferry service. I did not hear the Hon. Mr Davis raise that as a cost saving in his whole of life argument about transferral of costs. One would also need about double that amount for an upgraded twin ferry service if we were going to provide the ferry service required in that area for the potential increase in traffic.

Therefore, it is clear that the bridge represents the least costly option to Government while also being the most effective for providing adequate access to the

island. In fact, these figures show that the Government stands to save in building the bridge compared with continuing the existing inadequate ferry service. The bridge option as preferred has been independently confirmed by expert consultants Connell Wagner who state, at page 13 of their June 1992 report—and I am sure that the Hon. Mr Davis has read it, because a copy was supplied to the Opposition several months ago, and he has probably read it two or three times:

> The discounted whole of life cost of maintaining the existing service is the same order as that of providing an improved service by way of a bridge. The cost to improve the service to a minimum desirable standard is nearly double that of a bridge. Consequently, the 'do nothing' and 'more of the same' options are considered to be unacceptable.

In his contribution, the Hon. Mr Elliott, while referring to the Highways Department rather than the Department of Road Transport, claims that tourists are manipulating the figures to produce the desired result, and I repeat for his benefit that the relative bridge and ferry costings have been checked by independent experts and are not just Government figures put together on the back of a pasty bag with the developers and sold into the public arena. It is just that some professional fudgers have been at work, over a long period of time, and they have confused the issue in the mind of the public, and consequently I think that they are starting to believe their own fudged figures in trying to get some political advantage.

Incidentally, the Hon. Mr Elliott also finds problems where there are none in referring to supposed inconsistencies with the Binalong EIS assessment report, which claimed Government savings of some $2 million in not having to operate a ferry and the current estimate of some $5.3 million in the Connell Wagner report. I point out that comparing these two figures is not comparing like with like. It is clear from reading the EIS assessment report that the $2 million figure is a net saving to the Government over a set period after having contributed an estimated $3 million to the cost of the bridge. I emphasise that point.

The figure of $5.3 million is the present value of the future operating costs and periodic replacement of the current ferry. These costs would be saved if a bridge is built, but taking account of the ultimate Government share of the bridge cost being $3 million, a net saving of $2.3 million results, which is the figure to be compared with the $2 million net saving estimated in 1989. These figures are comparable having regard to inflation since the 1989 estimates. Indeed, I understand it is probable that the current estimated net saving of some $2.3 million is conservative when compared with the 1989 estimate of $2 million.

To return to the terms of the motion, while there is some risk that the recoupments may not be fully achieved from Binalong—the Hon. Mr Davis certainly went into the ins and outs of the private company involved—the arrangements are such that instead of Government recouping its outlays in excess of $3 million (with interest of some 10.5 per cent) over the 12 years of the Binalong project, the period may extend to as long as 20 years over which the council would make contributions in respect of new developments on the island that have been enabled by the bridge.

The bridge option is not only the least costly option but also the most effective in providing access, and most importantly is the catalyst for already approved significant development of the island with major spin-offs for the local and regional economy. Under its planning approval, the Marina Goolwa project of some 850 allotments can only progress past the first 150 allotments subject to the provision of a bridge. Some $15 million has already been spent by Binalong on the core infrastructure for the development. The economic benefits to the region from the development of about 850 allotments, associated housing construction and increased demands for goods and services of an increased population and visitation are readily apparent.

The second area proposed for investigation is why the Department of the Premier and Cabinet has assumed responsibility for negotiating the financial details of the project, rather than the Department of Road Transport, as is normal practice for road construction initiatives. The Department of the Premier and Cabinet has long had a role in the facilitation of major projects and became involved in the project because—

The Hon. Diana Laidlaw: I thought you said it was a swing bridge.

The Hon. T.G. ROBERTS: I said that when one compared it with some of the wild statements that have been made it pales in significance in relation to what would be regarded—

The Hon. Diana Laidlaw: It is only a major development because it is the only one that this Government has got up in years.

The Hon. T.G. ROBERTS: If the Opposition has its way, we will not get this one up, either. The project, because it involved complex issues related to the $20 million Marina Goolwa development, extended far beyond the role of the Department of Road Transport. Originally, Binalong Pty Ltd proposed to build a bridge to satisfy a requirement for improved access to Hindmarsh Island to enable the development of the Marina Goolwa project comprising a marina, tavern, various commercial developments and some 850 residential allotments. Who knows, the Hon. Mr Davis may put together a bed and breakfast regime down there in his retirement when he leaves this Council. An EIS process was carried out with community input and the development was approved with progress beyond a first stage of some 150 allotments being subject to the provision of a bridge to the island.

The Government agreed to contribute half the cost of the bridge to a maximum of $3 million in consideration of forecast savings of some $5 million that would be made in not having to continue a ferry service. With the downturn in the property market Binalong encountered financial difficulties and approached the Premier's Department to explore options for a continuation of the project. Discussion ensued with the project's primary financier Westpac and it became clear that the project could continue if Binalong could be relieved of the obligation to build and fund the bridge up front, with the Government building it instead, funding the bridge and collecting contributions from Binalong after it had discharged its debts to Westpac. It was also contemplated that the Government would develop ways to achieve contributions from other parties, for example, future

developers standing to benefit from the provision of the bridge, thereby reducing the burden on Binalong.

What has ensued has been a complex round of negotiations with Binalong, its bankers and the District Council of Port Elliot and Goolwa to develop an equitable system of deriving contributions to the bridge. This exercise has been extended well beyond the bounds of the normal role of the Department of Road Transport, and quite appropriately has been handled by the Department of Premier and Cabinet because of the cross-portfolio aspects of the exercise—nothing more than that. The negotiations are now being handled from the Treasury Department due to the recent transfer of the officer who handled these matters over the past 12 months in the Department Premier and Cabinet to the position of Assistant Under Treasurer, Infrastructure and Asset Management. This has been in the interests of continuity in what has been a very complex exercise. One could scarcely argue that it is inappropriate for Treasury to be involved in negotiations over complex financial arrangements.

The other matter that the honourable member wishes the committee to examine relates to the details of the financing arrangement, including the long-term financial exposure for the taxpayers of South Australia. The Government has now negotiated a tripartite agreement with the District Council of Port Elliot and Goolwa and Binalong Pty Ltd for the funding and construction and maintenance of the bridge with a view to maximising the prospects of recovering contributions from development of the island. It has not, as the Hon. Mr Elliott claims, turned out to be an exclusively Government project.

Unfortunately, it is not possible to forecast over what period of time the Government might fully recoup the required third party contributions to the bridge. This depends on the rate at which development on Hindmarsh Island proceeds. Nevertheless, if the Government received no contribution to the bridge it is certain to be financially better off than pursuing an upgraded ferry service, which has been estimated to have a discounted whole of life cost of some $11 million or nearly twice the cost of the bridge. I wonder if the Hon. Mr Davis took that into account.

Moreover, Binalong has invested some $15 million in core infrastructure on the Marina Goolwa site and, in the event of Binalong's demise, it is almost certain the project would be on-sold at market value, making it profitable to develop to the limit of planning approvals with recoupments then flowing to Government from the council-based contribution scheme from new allotments. It is not new for development projects in difficulty to be bought out by other developers.

In summary, the Government stands to save the taxpayers some $3.3 million in proceeding with the bridge (a net outlay of $3 million after recoupments) compared with continuing to operate the ferry service (a whole of life cost of some $5.3 million) and stands to save some $8 million compared with the cost of a twin ferry service of around $11 million. That has been advocated by opponents of the bridge. As regards the risk of no development, or limited development, occurring on the island and the demise of Binalong, the Government has to collect a mere $1.1 million from the council and Binalong over 20 years to make the cost of the bridge less than the cost of the current inadequate ferry service. The total bridge cost is $6.4 million and the ferry cost is $5.3 million, making a $1.1 million cost overall.

The fourth proposed term of reference relates to benefits to be derived by Binalong Pty Ltd from the building of the bridge and to the propriety of the Government's decision in conferring essentially private benefits at taxpayers' expense. The proposed arrangements present a classic win, win situation, with the Government standing to make the substantial aforementioned saving while Binalong's continuation of its major development project is facilitated. If we examine what the Hon. Mr Davis said in his opening statement, where he said that it is more like a Liberal Party financed project than a Labor Party financed project, I think we can be sure that, if it was a fully funded project from the private sector, we would find a tollgate at the end of the bridge, a bit like the New South Wales proposal.

Moreover, the local region and its population receives a significant economic boost from the major Marina Goolwa development proceeding and from other developments on the island that might be enabled by a bridge. Lastly, the council stands to gain increased rate revenue from the new development, making it a more financially viable and effective council. It is clear that provision of the bridge could not be reasonably characterised as conferring only private benefits at taxpayer expense.

The final area proposed for investigation concerns why the timetable for calling tenders in August/September 1992 for work to commence in November 1992 and for work to be completed in November 1993 has not been met, including the cost implications of delay in commencing the project. Any timetable for this project has always been expressed to be subject to satisfactory completion of arrangements for financing of the bridge. Of course, time estimates need to be provided for budget purposes, but it is more important for contributions to the bridge to be achieved on a satisfactory basis than for substantial contributions to be sacrificed to meet a self-imposed time limit. There have been difficulties in negotiating through those time frames. Very low levels of inflation and a competitive construction industry, which is crying out for projects at the moment, have seen a rise in the estimated cost of the bridge through the period of completed negotiations. The negotiation of arrangements has been very complex, has involved three parties, including a rural council, whose members need to be involved, and has entailed complex legal aspects.

I now turn to the question of the bridge location, which is of concern to the Hon. Mr Elliott—and this matter was raised by the Hon. Mr Davis in his contribution and I think also by the Hon. Miss Laidlaw by way of interjection—and he suggests that the Goolwa barrage may be an alternative site for the bridge since the barrage will need replacing in five to 10 years. There are a number of difficulties associated with this suggestion. Firstly, as I understand it, the E&WS Department has advised that there are no plans nor any need to replace the barrage in five to 10 years. So, I am not quite sure where that information came from. Based on experience of the lifetime of such facilities elsewhere

and the current state of repair of the barrage, it anticipates a further useful life of at least 20 years. So that probably falls in line with the Hon. Mr Davis's projected investment in his bed and breakfast establishment, if that is going to be the proposal that he looks at down there.

Bringing forward such a major project would entail a massive penalty cost compared with extracting the full useful life of those very expensive facilities. Secondly, a bridge built in conjunction with the barrage comprising the requisite moving gates and major operating components would be very complex and, therefore, very costly. Thirdly, the span from the mainland to the island at the barrage is over twice the span of the current ferry crossing (where the existing causeway substantially reduces the length of the bridge needed). The cost of a bridge at the barrage would therefore be more. I am sure the Hon. Mr Davis does not want that.

The honourable member is also concerned about possible environmental impacts. I think that everyone involved in the project is concerned as well. However, as I said before, the project can go ahead, it can be put together sensitively, it can bring benefits and it can bring about cost savings to taxpayers if it is negotiated and carried out properly. Not to recognise that there may be problems would be remiss. However, impacts of this nature are very difficult to quantify. If the Council does pass the motion that the committee examine the project, I guess that would be something we could look at. However, I am sure that, after this contribution, members of the Opposition will probably vote with the Government and decide, after all this air clearing of information that has been put before them, that they will vote against their own motion.

It is important to note that with or without the Hindmarsh Island proposal a means of control of public access particularly close to some shorelines in the Murray mouth region is necessary. In fact, the EIS assessment report recommended that appropriate management strategies be developed to protect the conservation values of the area, and I am sure we all agree with that. In relation to what the bridge may look like, I understand that the Department of Road Transport has not changed the basic design depicted in elevations and artists' impressions contained in the EIS documents.

In summary, then, the key points to remember are these. The provision of a bridge to Hindmarsh Island will result in a net cost to the Government of some $3 million, which is significantly less than the discounted whole of life cost of continuing the existing inadequate ferry service and about one-third the cost of an upgraded ferry service. Even if the Government failed to recover any contribution to the bridge, its net cost of $6.4 million would still be a substantial saving on a minimum desirable standard ferry service at $11 million. Moreover, the bridge represents an important catalyst to development and boosting the region's economy with some 700 allotments approved for subdivision—and I am sure it is nowhere near the 1 800 or 1 600 allotments that were mentioned earlier—contingent on the provision of a bridge and with infrastructure of some $15 million having been put in place by Binalong to support this development. The Port Elliot and Goolwa District Council supports the construction of the bridge.

The Government knows that the bridge proposal has attracted criticism, as almost inevitably do all projects. However, the financial justification for the project speaks for itself, and I hope that the Opposition will go out and sell the benefits, as I have clearly enunciated, to the people of South Australia so that the confusion that has been placed in people's minds over the past six to 12 months no longer exists. The final justification for the project does speak for itself. The Government is confident that in time people will come to see the bridge as an asset for the State and particularly for one of the State's important and growing tourist regions. Given the facts that I have outlined, clearly there is no justification for the committee to investigate this project and consequently I urge all members to oppose the motion.

The Hon. DIANA LAIDLAW: I would like to thank all honourable members for their contribution to this debate and suggest to the Hon. Terry Roberts that, if he thinks that this bridge is such a terrific idea, he should go out and sell it. I certainly have no intention of doing so, because I think the figures that the Government has used in terms of recoupment costs are shonky, and I think it reeks of so many of the other dirty deals with which the Government has been associated when it has come to development in this State over the past decade.

An honourable member interjecting:

The Hon. DIANA LAIDLAW: Notwithstanding the honourable member's contribution, I think that if there was any credibility in his contribution the Minister herself would have been prepared to give it, as she signed the heads of agreement. However, she does not want to be associated with it publicly so she gets a backbencher—I will not say a mere backbencher—to speak to this. It is very interesting to see how the front benchers in this Chamber do not want to speak to this motion because they do not want to be associated with it. They know they are not going to be in Government for long, so they will leave this arrangement for others to pick up.

Notwithstanding the quality of the contribution and the lack of integrity and credibility of the contribution, I do thank the Hon. Mr Roberts for at least being one Government member who is prepared to speak to the motion. I find it difficult to accept, however, that he is also a member of the very committee that this Parliament is asking to review this project. Perhaps it is a dilemma for him to solve because I do know that when he is a member of that committee he is not merely a Government stooge, and I think he will then disregard a number of the things that he has said today and will look at the motion and the whole saga of the bridge on its merits and not just be a stooge for the Minister.

Anyway, as I say, I thank him for his contribution and all other members who have contributed. The investigation that I seek is pertinent to every one of the three broad areas encompassed by the Environment, Resources and Development Committee's charter. I have ensured that the terms of reference are sufficiently broad to allow the committee to investigate the economic, financial, environmental and social issues in relation to the Government's decision to push the construction of this bridge and now to fund this bridge. I think it is important (and this was an interesting omission, if I

could have the Hon. Mr Roberts' attention for a moment) from his address, because he should appreciate that, when the District Council of Port Elliot and Goolwa made deputations to the then Minister of Transport in 1987 and 1989 for the bridge, it was made very clear—and this is in a statement by the Department of Environment and Planning in response to the EIS—at these meetings that the State Government was not prepared to fund a bridge at this location and considered that it was a council responsibility.

I find it interesting that the Government reply to my motion does not make any reference to the fact that when this bridge was initially put up there was no thought at all that this Government should have any part of funding it, but then we had the State Bank problems and we had Binalong problems. I will not elaborate further on that, but I hope the committee will, because for some very uncomfortable reason we now find that this State Government is very prepared to reverse those sound decisions made in 1987 and 1989.

The Hon. T.G. Roberts: There were savings for taxpayers.

The Hon. DIANA LAIDLAW: There were savings for taxpayers. If the same figures stand up now, then there were savings for taxpayers in 1987 and 1989, when the council called for the Government to build such a bridge. The Government said on those two critical dates that it would not fund a bridge but, as I say, times have changed. I want to make it very clear that my motivation in moving for this investigation is a deep-seated unease about why and to what extent the Government is involved in this project and to assess the long-term financial exposure for the taxpayers of South Australia.

I am not out to attack the developers on the island and those who may seek to develop in the future. I have been accused of trying to target Binalong Pty Ltd, the developer of the marina project on the island, but this is not so. I have visited the marina development both officially and on several occasions as an interested observer. The Chapman fancily know that I applaud their development as a quality project, and I am impressed, I may add, with the excellent, far-sighted work that they have undertaken in terms of effluent disposal. They know that I applaud the project as a quality development which seeks to make every effort to be sympathetic to the environment on the island. I wish them well. I have done so in the past and I do so in the future.

Indeed, I note that since the price of blocks was dropped to a realistic market price during Christmas and the New Year the blocks are now selling relatively well. There has been considerable speculation, however, that a number of people are trying to buy these blocks before the levy is imposed on the sale; and they are being bought by people who are proposing not to live there or to make the house a principal or secondary place of residence but merely to onsell the blocks at a later date. I suspect that when they see what the levy is and will be when indexed over a 20-year period they may not be so interested or may not find the clients who are so keen to buy the blocks that they bought for sale on speculation.

It is also interesting to note that the blocks have sold since the prices have dropped. However, the levy being proposed by the Government and the council will see those prices restored to their former level and, I suspect, the lower rate of sales that Binalong and other developers enjoyed before the Christmas-New Year period. It has been suggested to me that one of the reasons for the drop in price is the Government requirement that over 50 per cent of the blocks in stage 1 must be sold to trigger Government funds for the bridge. Apparently, some 50 to 60 per cent of the blocks in stage 1 have now been sold.

As I indicated when moving this motion, initially it was Binalong's view, stated quite specifically in the environmental impact statement, that it did not see a need for the bridge. It argued that upgrading the ferry service would maintain an adequate level of service for many years to come, following commencement of its proposed development. I believe that that is still the case and that there is no urgent need for the bridge, and also that the agenda have changed since the bridge was given the go ahead by former Premier Bannon. So, at this time of financial crisis in South Australia, I urge members opposite that they must be confident that the proposed bridge does not turn out to be a white elephant that exposes taxpayers to further financial burdens that no-one can afford.

I also believe that they must be pretty confident that they are going to be paying only half the cost of this bridge and that even over a 20 year period they will be able to recoup the other cost plus interest, because I suspect, based on discussions with real estate agents around the State, particularly those who specialise in developments and sales of land near waterways and beaches, that developments on Hindmarsh Island will not sell well when this levy is added to the sale of blocks of land in the future. Therefore, the Government's hoped for returns, through levies collected by the council, will not be realised, and I suspect that the taxpayers will end up paying the full cost plus interest on this bridge, not half the cost plus interest as the Government keeps suggesting it has negotiated so far.

I argue very strongly that there is no urgent need for the bridge and that the agenda has changed since the Premier announced that the Government would participate in providing a maximum of $3 million for this bridge. I also argue very strongly that we must be confident that adequate environmental and tourism management plans are in place before any bridge is opened. An environmental impact statement has been prepared for the bridge but no environmental impact statement has been prepared for the scale of development that will be required to proceed if the Government is to recoup the costs that it hopes to recoup for half the cost of this bridge.

That is pretty devastating. I do not have a direct commercial interest in the Lower Murray or in the Coorong, but I have a deep emotional interest, because I have been brought up to love that area through going there with my grandparents 35 years ago, summer after summer, learning to sail with my father and later surfboarding and the like. I have a very deep emotional attachment to the area, and I have a great deal of respect for what the Aborigines are trying to do there in terms of recapturing the spirit of their heritage.

The Minister acknowledged when we were debating the Harbors and Navigation Bill that she was not familiar with the area, but if she had any knowledge of the area

she would have been as offended as any disinterested, let alone interested, observer would be with all the jet skis and the like that were going around the wetlands, disturbing the birds in and around the channels over this past Christmas. That comes from the increased tourism push at the current time, let alone before this bridge is built. I plead with members opposite who have shown from time to time an interest in conservation that, if they have not been down to the brilliance and beauty of the Lower Murray, particularly the Coorong area, they do so, because it is a treasure.

I acknowledge the efforts being made by the Federal Government and others to ensure that one day that area will be on the world heritage list, but I suggest that if this bridge is allowed to go ahead without a tourism plan or any sort of environmental management plan this area will not qualify for world heritage listing, because it will have been greatly destroyed by a bridge, in the funding of which no-one knows why the Government is involved, when four and five years ago the Government had no wish to fund it.

Before concluding, I seek leave to incorporate in *Hansard* a table outlining a computer model of the levy that will need to be charged on people who buy blocks of land in the future, and the rate of sales of blocks of land that will be required for the Government to recoup the costs of this bridge over a 20 year period at an initial charge of $325 per annum indexed at 5 per cent, acknowledging also that the interest rate as proposed by the Premier for the upfront capital of $3.4 million will be 10.5 per cent.

The Hon. R.R. Roberts interjecting:

The Hon. DIANA LAIDLAW: That is what I asked the Minister for today.

Leave granted.

Assumptions Based on Financial Details Provided by the Premier
Interest rate 10.5%: block sales 100 pa: charge per block $325 pa: indexed 5 % pa

Capital A	Interest A	A + B	Blocks	Income E	A + B - E	Cost/ Block Per Year
1 - 10 years						
3 400 000	357 000	3 757 000	100	32 500	3 724 500	325
3 724 500	391 073	4 115 573	200	68 250	4 047 323	341
4 047 323	424 969	4 472 291	300	107 494	4 364 798	358
4 364 798	458 304	4 823 101	400	150 491	4 672 610	376
4 672 610	490 624	5 163 234	500	197 520	4 965 714	395
4 965 714	521 400	5 487 114	600	248 875	5 238 240	415
5 238 240	550 015	5 788 255	700	304 872	5 483 383	436
5 483 383	575 755	6 059 138	800	365 846	5 693 292	457
5 693 292	597 796	6 291 088	900	432 156	5 858 932	480
10 - 20 years						
5 858 932	615 188	6 474 120	1 000	504 182	5 969 938	504
5 969 938	626 844	6 596 782	1 100	582 330	6 014 452	529
6 014 452	631 517	6 645 969	1 200	667 032	5 978 937	556
5 978 937	627 788	6 606 725	1 300	758 749	5 847 976	584
5 847 976	614 037	6 462 013	1 400	857 970	5 604 043	613
5 604 043	588 425	6 192 468	1 500	965 217	5 227 251	643
5 227 251	548 861	5 776 112	1 600	1 081 043	4 695 070	676
4 695 070	492 982	5 188 052	1 600	1 135 095	4 052 957	709
4 052 957	425 561	4 478 518	1 600	1 191 850	3 286 668	745
3 286 668	345 100	3 631 768	1 600	1 251 442	2 380 326	782
2 380 326	249 934	2 630 261	1 600	1 314 014	1 316 246	821
20 - 30 years						
1 316 246	138 206	1 454 452	1 600	1 379 715	74 738	862
74 738	7 847	82 585	1 600	1 448 701	-1 366 116	905
-1 366 116	-143 442	-1 509 558	1 600	1 521 136	-3 030 693	951
-3 030 693	-318 223	-3 348 916	1 600	1 597 192	-4 946 108	998
-4 946 108	-519 341	-5 465 450	1 600	1 677 052	-7 142 502	1 048
-7 142 502	-749 963	-7 892 464	1 600	1 760 905	-9 653 369	1 101
-9 653 369	-1 013 604	-10 666 973	1 600	1 848 950	-12 515 923	1 156
-12 515 923	-1 314 172	-13 830 094	1 600	1 941 397	-15 771 492	1 213
-15 771 492	-1 656 007	-17 427 498	1 600	2 038 467	-19 465 965	1 274
-19 465 965	-2 043 926	-21 509 892	1 600	2 140 391	-23 650 282	1 338
30 - 40 years						
-23 650 282	-2 483 280	-26 133 562	1 600	2 247 410	-28 380 972	1 405
-28 380 972	-2 980 002	-31 360 974	1 600	2 359 781	-33 720 755	1 475
-33 720 755	-3 540 679	-37 261 434	1 600	2 477 770	-39 739 203	1 549

Capital A	Interest A	A + B	Blocks	Income E	A + B - E	Cost/ Block Per Year
-39 739 203	-4 172 616	-43 911 820	1 600	2 601 658	-46 513 478	1 626
-46 513 478	-4 883 915	-51 397 393	1 600	2 731 741	-54 129 134	1 707
-54 129 134	-5 683 559	-59 812 693	1 600	2 868 328	-62 681 021	1 793
-62 681 021	-6 581 507	-69 262 528	1 600	3 011 744	-72 274 273	1 882
-72 274 273	-7 588 799	-79 863 071	1 600	3 162 332	-83 025 403	1 976
-83 025 403	-8 717 667	-91 743 070	1 600	3 320 448	-95 063 518	2 075
-95 063 518	-9 981 669	-105 045 188	1 600	3 486 471	-108 531 658	2 179
69.06	69.06	80.64	46.02	70.98	80.64	34.92

The Hon. DIANA LAIDLAW: It is very important for the committee to look at submissions from the Department of Road Transport and at the schedules of proposed work over a number of years, and they will see that this bridge has never featured on that schedule. It is also important that they speak to Tourism SA, because, in terms of road works and the like, it would certainly have indicated a whole range of other priorities: the south coast road on Kangaroo Island is one, roads in the Flinders Ranges is another and, of course, the Burra-Morgan road is particularly special.

I suspect also that tourism in the South Coast-Fleurieu Peninsula area would also have nominated the Range Road linking Goolwa, Victor Harbor and Cape Jervis as an important priority. Certainly, that was the submission I received when I was shadow Minister.

The background to this whole saga of the bridge is pretty extraordinary. I look forward to members of the Environment, Resources and Development Committee looking at this whole saga. I am pleased that the majority of members agree that the Council is the appropriate forum to do so and, as the Hon. Legh Davis said, I think it is particularly appropriate that this committee do so because it replaced the old Public Works Committee, which looked at all capital works projects over $2 million.

The committee's work will generate a great deal of public interest. I wish the committee well in its deliberations on this vexed issue, and I hope the committee will also call for submissions from, for instance, the Engineering and Water Supply Department, because I know that it has been having arguments with Treasury over the funding of water effluent disposal schemes for Hindmarsh Island, as the E&WS has no wish to reallocate its priorities for effluent schemes on the island. Treasury now finds, because it is involved with this wretched bridge, that there will be additional roadworks and expenses, and I suspect the Government will find that any whole of life cost savings that it thinks it will make on a bridge will be more than soaked up by additional Government infrastructure expenses for roads, E&WS, power and a whole range of other activities. So, I am pleased the majority of members support this motion and look forward to the committee receiving it and looking at this matter as soon as possible, and with diligence.

Motion carried.

MAGISTRATES COURT ACT

Order of the Day, Private Business No. 12: Hon. J.C. Burdett to move:

That the rules of court made under the Magistrates Court Act 1991, concerning Civil Jurisdiction (General), made on 6 July 1992 and laid on the table of this Council on 6 August 1992, be disallowed.

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

That this Order of the Day be discharged.

Order of the Day discharged.

LOCAL GOVERNMENT (PRESERVATION OF PUBLIC OPEN SPACE) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 25 November. Page 994.)

The Hon. DIANA LAIDLAW: This Bill, which I address on behalf of the Liberal Party, was introduced by the Hon. Mr Elliott on 25 November. He indicated in his second reading speech that the proposals outlined were prompted to a large extent by his concern, and the concern of local residents, about the Craigburn Farm area. I share those concerns, which the Liberal Party has been discussing and addressing. I also share the concern expressed by the Hon. Mr Elliott about the use and enjoyment of the parkland belt that surrounds the city of Adelaide, and it has long been my wish to see a second generation parkland in this State.

I have voted against various measures introduced by this Government from time to time to alienate further parkland areas, and I remember having some heated discussions with some of my colleagues when I voted against the proposal that the Government be exempt from the Planning Act so that it could proceed with the ASER Development on an area that was once dedicated to parklands. So, I think I have shown that I am keen to see the use of public space maintained and increased. Certainly, I recall leading within my Party the opposition to the Botanic Gardens Board placing the proposed conservatory in the centre of Botanic Park, and it is good to see that it is now on the site of the former STA Hackney bus depot.

So, I share the Hon. Mr Elliott's concerns with respect to this prized asset of open space within our community, and so do my colleagues. Mr Elliott proposes that in future this asset should be placed on a register, that both

local government and the State Government would be able to nominate a particular piece of land for this register, and that such land could only be removed with the concurrence of both those levels of government. However, he said that he was not happy with the current form of the Bill and was prepared to introduce further amendments. I have not seen those amendments, and we would be happy to discuss them at some stage.

However, I indicate at this stage that we would not be interested in supporting the Bill in its current form because we feel that the new Development Bill before the Parliament has the provisions and sufficient safeguards to cover the concerns that have been expressed by the Hon. Mr Elliott. It is certainly very important in terms of the strategic plan. If the Government is diligent in developing the strategic plan, and it does have specific reference to no further alienation of public open space and reference to second generation parklands, those measures in the strategic plan must then be incorporated in local development plans, although it is not too clear how that will be done in the Development Bill in its present form. However, that certainly is the goal. So, I rise at this stage to support the sentiments expressed in the Bill, but the Liberal Party does not believe that the measures in the Bill are appropriate for consideration at this time, particularly prior to debate on the Development Bill.

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

ENVIRONMENT, RESOURCES AND DEVELOPMENT COURT BILL

Adjourned debate on second reading.
(Continued from 1 April. Page 1862.)

The Hon. K.T. GRIFFIN: This is one of a package of three Bills on the Notice Paper that deal with development. I understand that another Bill is to come from the House of Assembly relating to heritage. How one can expect to get through that Bill in conjunction with these three by the end of this session is a mystery to me, but we will do our best to facilitate the business of the Council in relation to these Bills. To some extent, dealing with the Environment, Resources and Development Court Bill before the Development Bill is a bit like putting the cart before the horse, but we can deal with the issues relating to the court as distinct from the issues contained in the Development Bill. The Development Bill, of course, is designed to deal with a whole range of issues affecting development and planning, and it is the basis for some quite radical change in development and the way in which development is undertaken in South Australia. My colleague the Hon. Diana Laidlaw will take the lead on that Bill and will undoubtedly have a great range of things to contribute in respect of that matter.

The way in which planning matters are presently dealt with when they become contentious is through the Planning Appeal Tribunal. The Planning Appeal Tribunal is established under section 17 of the Planning Act 1982 which provides that the Planning Appeal Tribunal, formerly known as the Planning Appeal Board, continues in existence. That picks up from the old Planning Act prior to the 1982 Act. Under section 18 of the Planning Act 1982 there is to be a chairman of the tribunal. The chairman is to be a person holding judicial office, under what was then the Local and District Criminal Courts Act, nominated by the senior judge as chairman of the tribunal. The chairman is not precluded from performing other judicial functions. So, under that provision, we have the senior judge exercising responsibility in relation to the appointment of a chairman of the tribunal, but the chairman must be a judge of the now District Court and is not precluded from performing other judicial functions. The chairman ceases to hold office as chairman when he or she ceases to hold judicial office in the District Court or when the revocation of the nomination by the senior judge is exercised. If the chairman is absent or unavailable to act, a judge nominated by the senior judge will act in the office of chairman. All judges holding office under the Local District and Criminal Courts Act (now the District Courts Act) are judges of the tribunal.

So, we have a situation of the present Planning Appeal Tribunal, which deals with all planning appeals, perhaps not with such extensive jurisdiction as is proposed for the Environment, Resources and Development Court, dealing with planning issues, and the composition of the tribunal is in the hands of the senior judge, now the Chief Judge of the District Court.

That enables some flexibility in the way the court is to be structured and enables, as at present, one or more judges to develop some specialist expertise and to sit in the Planning Appeal Tribunal. It also allows flexibility because, if judges are absent through sickness or long service leave, it enables other judges to be slotted into the work. I know that that can be regarded as undesirable if they do not have previous planning experience. So it is desirable to develop a body of expertise within the judiciary, or at least a selected group of the judiciary, to be familiar with both planning law and with the sorts of decisions that have to be taken under the Planning Act. I understand that that has worked reasonably well.

There were some problems at one stage, but that is quite some distance in the past where there was some rotation of judges in the planning area and judges with that experience became involved in making decisions and some of them did not do that job particularly well. But that has been overcome. The sort of structure that we have at the moment is desirable because it enables any excess capacity among judges who are specialists in planning to sit on other matters within the District Court. Members will recall the position in the early 1980s and prior to that the Planning Appeal Tribunal and prior to that the Planning Appeal Board which had, I think, five judges who sat as judges of the Planning Appeal Board. They were also judges of the District Court, but their premises were away from the mainstream courts. They were relatively unaccountable for the way in which they organised their time and ran their board and tribunal and there was surplus capacity.

When I was Attorney-General, as part of the beginning of courts restructuring, we proposed to the Parliament—and the Parliament accepted—that a variety of administrative bodies, including the Planning Appeal

Board in particular, should be brought within the umbrella of the mainstream Local and District Criminal Court so that there could be more flexibility and also full utilisation of the time of the judges involved in planning appeal work. That raised some concern among the judges of the planning appeal jurisdiction, but the merger with the Local and District Criminal Court of the supervision and management of the appeals functions has operated reasonably successfully.

It is interesting to note that in the most recent courts restructuring package the Government has maintained that initiative by establishing the Administrative Appeals Division of the District Court of which the present Planning Appeal Board is a part. That rationalises resources and ensures that those who administer the administrative appeals jurisdictions are properly accountable. It also gives the Chief Judge some flexibility in making appointments to the tribunals, some of which meet infrequently while others meet more frequently and some meet with lay commissioners.

There is another advantage in having judges of the Planning Appeal Board and other administrative tribunals under the jurisdiction of the District Court, and that is that they are exposed to other areas of work undertaken by the judiciary. There is a greater cross-fertilisation of ideas and exchange of views and generally a better capacity to keep up with developments, not only in the law but also in the techniques of judging, running cases and the administration of the court. In terms of administrative support, it is to be preferred that the Administrative Appeals Division of the District Court is under that umbrella of the District Court administration rather than out on its own.

The Planning Act of 1982 allows for the appointment of commissioners of the tribunal. They are appointed by the Governor. They are appointed on a full-time or part-time basis, but no more than six may be appointed on a full-time basis. These are lay people who have a practical knowledge of, and experience in, local government, urban and regional planning, administration, commerce or industry, or environmental management, housing or welfare services. A full-time commissioner holds office upon terms and conditions determined by the Governor. Then there are provisions which follow, which establish the principles upon which proceedings will be conducted.

The administrative responsibility for the tribunal is given to the senior judge, who may give directions as to the sittings of the tribunal and the arrangement of its business. The tribunal is to be constituted of a judge and not less than two commissioners or a judge or a commissioner sitting alone. The senior judge may give directions as to the constitution of the tribunal and then follow other administrative directions. It is important to note that under the jurisdiction of the District Court at present through its administrative appeals division is a provision not only that the tribunal may be constituted of a judge and not less than two commissioners, or a judge sitting alone, but also a commissioner. That is a similar structure to that proposed in this Bill, and I want to address remarks to that specifically in a few moments.

Under section 28 of the Planning Act at the hearing of proceedings the tribunal will, subject to the Act, determine its own procedure. The tribunal is not bound by the rules of evidence and may inform itself upon any matter as it thinks fit. The tribunal must act according to equity, good conscience and the substantial merits of the case. Already within that administrative appeals division and under the umbrella of the District Court there is a provision for commissioners to sit alone and make certain decisions, and there is a provision which ensures that the tribunal may operate without necessarily being bound by the rules of evidence. That is a feature which those who are involved in the planning industry are keen to see continued in whatever structure is established for dealing with planning and other decisions following the passing of the Development Bill.

It is in that context that I want to move to the Bill before us. It is important to recognise the way in which the planning jurisdiction presently operates and the way in which it is proposed to be changed by the Environment, Resources and Development Court Bill. The Bill seeks to establish a new court: the Environment, Resources and Development Court and, according to what I interpret from the Bill, a new bureaucracy to support it.

It is true, of course, that judges of the District Court will be members of this new court. They will in fact be appointed by the Governor, although they are appointed by the Governor after consultation with the Chief Judge. The presiding member is responsible for the administration of the court. So, the appointment is made by the Governor; there must be consultation with the Chief Judge, but the presiding member is responsible for the administration of the court, not the Chief Judge. Then any other judge holding office under die District Court Act designated by the Governor as a judge of the Environment, Resources and Development Court will be a judge of the court.

It is true that under clause 8 of the Bill the presiding member is not precluded by that office from performing judicial functions outside the court. It is true also that the presiding member, who is responsible for the administration, may delegate powers and functions to another judge of the Environment, Resources and Development Court. It is interesting to note that the appointment by the Governor of the presiding member is made after consultation with the Chief Judge. It is a curious constitutional question as to whether the Governor can consult with the Chief Judge or, constitutionally, ought to consult with the Chief Judge. That is an issue that I intend to explore in Committee, although it is not a significant issue under this Bill.

A magistrate appointed who is designated by the Governor will be also a member of the Environment, Resources and Development Court while he or she continues to hold office as a magistrate and a magistrate who is exercising functions as a member of the court is administratively responsible to the presiding member of the court. So, the Governor now takes on the responsibilities of appointment. One acknowledges that that is the position in the present Children's Court, but that of course is a court that has been established for a long period of time. I have some concerns about the removal of the responsibility for appointing members of the court from the Chief Judge. I think that if a judge is a judge of the District Court the Chief Judge ought to have administrative responsibility for that officer and not

for that decision to be taken out of the hands of the Chief Judge by legislation, even though in relation only to the presiding member there is a provision for consultation.

I have a real concern about the establishment of a new court, anyway. I would suggest that that is a retrograde step and takes us back to the 1970s when the Planning Appeal Board and the Planning Appeal Tribunal acted and were constituted to act separately from the Local and District Criminal Court, even though the judges of the planning jurisdiction were judges of the Local and District Criminal Court. The whole object of bringing that board and that tribunal under the jurisdiction of the District Court was to try to rationalise resources and the use of judicial time as well as the administrative support services. I would be disappointed if this new proposed court, separately established, took on a life of its own even though the judges were judges of the District Court and it established its own bureaucracy for providing administrative services and support to the new court.

I know that within the planning area the National Environmental Law Association has supported the establishment of a new court. It has said in a submission—which I am sure the Government has as much as the Opposition—that there are precedents, that there is the Children's Court, the Licensing Court and in New South Wales there is the Land and Environment Court. Again in South Australia, there is the Wardens Court under the Mining Act and the Industrial Court under the Industrial Relations Act. One acknowledges that there are those other jurisdictions. That is not an argument for establishing yet another jurisdiction outside the control of the Chief Judge and under the umbrella of the District Court.

The Licensing Court has a unique function; it is established as a licensing court, very largely for constitutional reasons. Licence fees are imposed, not duties of excise, and there is a concern that if that were abolished the fees that are collected from liquor outlets would be a duty of excise rather than a licence fee. So, there have always been some good constitutional arguments used in relation to the maintenance of the licensing court. I understand that so far as the Wardens Court is concerned the Government does have some intention ultimately to bring that under the umbrella of the mainstream courts. I have proposed periodically that the Industrial Court be brought within the mainstream of the courts. I know that that has been met with some resistance by employers and unions involved in the industrial jurisdiction. But, at least in areas where the Industrial Commission and then the Industrial Court deal with matters such as workers compensation claims, wrongful dismissal, breaches of the statute, I still think that they ought to be within the mainstream of the courts.

I acknowledge that in the submission of the National Environmental Law Association and of other persons involved in the planning and development area, there is a desire that there be a separate court. The first draft of this Bill, published in November, did in fact provide for this body to be a division of the District Court. However, the submission from a range of people persuaded the Government to move away from that model.

Let me talk about some aspects of what the National Environmental Law Association (South Australian Division) says about the system. It states that:

Some obvious features of the existing District Court and Supreme Court system are:

1. Counsel are required to robe.
2. The court is bound by the appropriate rules of court, be they the District Court Rules or the Supreme Court Rules.
3. Companies are required to be represented by a lawyer.
4. With some limited exceptions the court is base on the adversarial system.
5. Conciliation procedures designed to deal with civil disputes are written into the relevant rules of court.
6. Lay representation is uncommon and is not encouraged.
7. Costs follow the events, namely, loser pays.
8. The court is bound by the rules of evidence.
9. The court is always constituted by a judge.

Some of the important features of 'the court' [the new Environment, Resources and Development Court] that clearly distinguish it from the District Court and the Supreme Court are as follows:

1. The court will not be bound by the rules of evidence whether it is considering a merits appeal or civil enforcement.
2. The court will on occasions be constituted by lay commissioners.
3. Costs will only be awarded in exceptional circumstances.
4. The court is to be informal and encourage lay representation.
5. Hearings are neither truly adversarial nor inquisitorial but a mix between the two.
6. The court will have its own conciliation/mediation provisions contained within the Act.
7. The court will extend standing to any member of the public.

The distinct differences that exist between the role and function of the proposed court and the existing District Court or Supreme Court can be clearly demonstrated just by reciting the above examples. In NELA's opinion to incorporate 'the court' into either the District Court or the Supreme Court would lead to increased formality and confusion, in particular with respect to the application of the relevant rules of court by a lay commissioner.

Well, with respect to NELA I think they miss the point. The point is that presently the Planning Appeal Tribunal operates under the umbrella of the District Court and all the features that NELA sees as features of this new or proposed court are presently features of the Planning Appeal Tribunal, and they are the features also of a number of other appeal tribunals which are part of the Administrative Appeals Division of the District Court. So, all the arguments of NELA, in my view, founder because they ignore the present provisions within the Administrative Appeals Division of the District Court and they ignore the fact of other tribunals where the same sort of characteristics which they want to apply to the court apply equally within those other tribunals, under the authority of the District Court and the Chief Judge.

So, the Liberal Party and I do not accept that it is important to have a separate jurisdiction established to

deal with environment, resources and development matters, and the Liberal Party proposes that we will endeavour, by amendment, to bring the new court or tribunal, however you want to describe it, back under the jurisdiction of the Chief Judge and of the District Court. That is where it ought to be, not out on its own. We have had 10 years of experience of the planning jurisdiction operating under the umbrella of the District Court, and I do not think we can afford to go back to the situation prior to that period where you had a jurisdiction hived-off on its own setting its own agenda, its own listing requirements, its own administration and its own bureaucracy, running itself totally independently of the other major jurisdictions in this State where legal practitioners have a responsibility and where you have judges of the District Court hived off to some new jurisdiction completely away from the ultimate administrative responsibilities of the Chief Judge.

It may be, in practice, even under my proposition, or the Liberal Party's proposition, that you still have judges dedicated to the work of this tribunal or court. I am not concerned about that. I agree that some specialty ought to be developed in relation to the work of this tribunal or court, but it is best developed within the overall structure of the District Court and administrative appeals area rather than being off on its own for the variety of reasons that I have earlier explored.

The questions of costs, formality and procedure are all important. I do not resile from that or seek to underplay it, but the fact is that they can be dealt with adequately under the model which I will propose by way of amendment and which is adequately being dealt with by the Planning Appeal Tribunal at the present time. There will be better coordination of various administrative appeals tribunals if it is structured within the District Court.

Some matters will be the subject of further discussion during consideration of the Bill in Committee, and I will certainly be moving some amendments. I think that the structure should be to enable the Chief Judge to designate a presiding member, or for the Chief Judge to designate other judges to sit in the jurisdiction, to enable the Chief Magistrate to designate appropriate magistrates to sit in the jurisdiction and for procedures to be informal and the rules of evidence not necessarily to be complied with.

There are some other issues that need to be addressed. I think that some attention will need to be given to the way in which the court is constituted, particularly in the context of commissioners sitting together. I know that the Chief Judge has some concerns about the propriety of that in the context of the structure of a true court, but it is already the position under the Planning Act 1982. Clause 15(4) provides that where:

> ...a commissioner dies or is for any other reason unable to continue with the hearing the remaining commissioner or commissioners may... continue and complete the hearing and determination of the proceedings, but otherwise the proceedings will be reheard.

It seems to me that one of the ingredients missing from that is the question of costs of the aborted hearing, and I think there ought to be some provision specifically to allow the payment of costs where the commissioner is unable to continue hearing those cases.

There is a provision to enable a party to be joined under clause 17. It does provide that a party may be joined by an *ex pane* application. That is where the party to be joined is not given a say in that, and I think that is inappropriate and that there ought to be a hearing to which the party who is sought to be joined as a party to the proceedings does have an opportunity to appear and make representation on that question.

There is the question of appeals. I think that in relation to the question of costs in clause 29 there ought to be a provision enabling an appeal as of right where a representative is ordered to pay costs. A right of appeal is given in the Magistrates Court Act and the District Court Act which we amended during the consideration of the courts restructuring package.

In relation to other appeals under clause 30, I have concern that there is not an appeal as of right on questions of law and fact. The question of legal costs I think is an important issue in clause 44. I must confess to not being at all happy about the Governor by regulation prescribing scales of costs for the purposes of clause 44. I think that there does need to be some independent fixing of the costs and, as with other jurisdictions, I should have thought that rules should be required to be made by the Chief Judge relating to the issue of scales of costs. I do not think there ought to be the limit that is placed upon a legal practitioner who must neither charge nor seek to recover in relation to any proceedings in respect of which scales apply an amount by way of costs in excess of the amount allowable under the scales.

We must remember that there are frequently some multi-million dollar projects under consideration here and, in the normal course in, say, the Supreme Court or the District Court, that restraint would not be placed upon legal practitioners. One must question whether, if other representatives are referred to in the Bill, the same restriction will apply to them. In any event, I have a concern about that arbitrary impost of an upper limit, even though a party may be quite willing to pay fees in relation to a particularly significant project with a view to getting it off the ground.

In respect of part-time commissioners, in the schedule there is a provision in clause 1(4) for a part-time commissioner to be appointed for a term not exceeding five years. I have argued on many occasions that with tribunals there ought to be a fixed term, and I recognise that there may be some difficulty in transition with the first appointment of a commissioner, but I do not believe that we ought to be putting part-time commissioners under threat of dismissal if they do not toe the line on certain issues which, of course, can be the effect if short-term appointments are made and there is no guarantee of reappointment. It is preferable to fix the term at five years and not to allow flexibility.

If this court is established, against the Liberal Party's wishes, I take the very strong view that it ought not to exercise criminal jurisdiction and that that criminal jurisdiction ought to be exercised only within the mainstream courts. I will certainly be taking a very strong position in relation to the removal of that jurisdiction from the court.

The only remaining matter is an issue which arises in the Development Bill but which is relevant to the

jurisdiction of lay commissioners. There may be other issues that arise during debate, but under clause 85(6)(g) of the Development Bill the court has power to order exemplary damages and, whilst subclause (8) provides that this power can be exercised only by or with the approval of a judge of the court, I would want to ensure that that was not exercised by a lay commissioner but only by a judicial officer.

Those are the sorts of issues that make it important that there be a right of appeal on issues of law and fact, particularly because the issues are important and so significant in value. We will support the second reading of the Bill, although we will be seeking to amend it substantially to bring it under the jurisdiction of the District Court but without the impediments to proper operation or the development of a specialist jurisdiction which the National Environmental Law Association has suggested would be the consequence of that.

Again, I do not agree that that will be the consequence. I think it is important that we do not establish yet another bureaucracy within the courts system but that we strive, rather, to develop within the existing framework opportunities for the exercise of this jurisdiction. I support the second reading.

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

[Sitting suspended from 6.1 to 7.45 p.m.]

MENTAL HEALTH BILL

In Committee.

(Continued from 20 April. Page 1937.)

Clause 20—'Treatment orders for persons who refuse or fail to undergo treatment.'

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

Page 9—after line 2 insert:

(4) The Registrar must, not less than two months before the expiry of an order under this section that endures for a period of six months or more, send a notice to the person who made the application for the order and to each other person empowered to make such an application, remind him or her of the date on which the order will expire.

I had a number of people contact me in relation to clause 20, and they expressed concern that, in the case of a person who is suffering from an illness which is long term, the 12-monthly reviews could be a cause of some trauma. They also had some concerns that with the 12-monthly review some people might fall through what might be described as bureaucratic holes.

The question of the 12-monthly review was raised in the other place and the Minister gave an assurance that, where reviews are occurring, every effort will be made to expedite their handling. I must say that personally I support the notion of a maximum of 12 months for a person having a treatment order. There is very good reason for not wanting these orders to be much longer and, if the time is to be extended, there should be some form of review both in terms of whether or not further treatment is necessary and also as to what form it might take.

So, having said that I support a maximum of 12 months, the major issue I have tried to address by way of this amendment is to ensure that administratively something is done to make sure that people do not fall through a bureaucratic hole. If a person has been given a period up to 12 months, and according to my amendment anything longer than six months, then I believe that the advocate or the medical practitioner who has been responsible for the original application and perhaps is involved with the treatment should be notified that that period is about to expire, so that if they believe that further treatment is required they will be alerted to the fact that that period is about to expire and that a further application might be made to the board. So, it is largely an administrative matter, but is an important one. I would not like people to fall through the bureaucratic hole and I just want to ensure that that does not occur.

The Hon. BARBARA WIESE: The Government will support this amendment. It was intended that this would be the sort of practice to be followed administratively in any case, so if the honourable member feels happier about having it in the legislation, then that is acceptable.

The Hon. R.J. RITSON: I am happy to announce that the proposal has tripartite support. In principle one has to question from time to time the practice of putting administrative requirements into principle Acts, because it is possible to consume staff resources heavily with reporting requirements, so that you diminish the time available to them for treating. This in fact happened at Broadmoor in the UK where 1 200 patients required annual review by a staff psychiatrist, and that was a very significant reduction in the resources. However, having a look at the shape of our mental health services and the probability that something like this proposal is already presently done by the present administration, we see no harmful consequences for it and therefore we will support it.

Amendment carried; clause as amended passed.

Clauses 21 to 26 passed.

Clause 27—'Representation upon appeals to board.'

The Hon. BARBARA WIESE: I move:

Page 14, lines 11 and 12—Leave out '(Mental Capacity)'.

As indicated when we last considered the Bill, this and the remaining amendments which will be moved by me are consequential upon amendments being made to the Guardianship and Administration Bill in another place.

Amendment carried; clause as amended passed.

Clause 28—'Appeals to Administrative Appeals Court and Supreme Court.'

The Hon. BARBARA WIESE: I move:

Page 14, line 14—Leave out '(Mental Capacity)'.

Amendment carried; clause as amended passed.

Clauses 29 to 37 passed.

Schedule.

The Hon. BARBARA WIESE: I move:

Page 18—

Line 7—Leave out '(Mental Capacity)'.

Lines 30 and 31—Leave out '(Mental Capacity)'.

Lines 37 and 38—Leave out '(Mental Capacity)'.

Line 48—Leave out '(Mental Capacity)'.

Page 19—

Line 5—Leave out '(Mental Capacity)'.

Line 9—Leave out '(Mental Capacity)'.
Line 16—Leave out '(Mental Capacity)'.
Line 25—Leave out '(Mental Capacity)'.
Line 36—Leave out '(Mental Capacity)'.
Line 41—Leave out '(Mental Capacity)'.

The Hon. M.J. ELLIOTT: During the second reading debate, I raised a question regarding the follow-up of patients who are discharged from treatment centres. I would like to know what is envisaged at that point. Patients may be able to be discharged, but they will require further guidance. Is it to be assumed that the patient has family members who are able to cope?

The Hon. BARBARA WIESE: As I understand it, the sort of issues that have been raised by the Hon. Mr Elliott with respect to the follow-up of people who are discharged from centres forms part of a much broader review of the Mental Health Act, to which the Government is now committed as part of an agreement that has been reached nationally under the mental health plan to upgrade mental health legislation around Australia in all its aspects by the year 1998 and in line with international standards. It is anticipated that in this State this could take two or three years to achieve.

In the meantime, the Government is committed to improving operations in this area of health services so that, by the time legislation actually hits the deck that will cover such matters as follow-up procedures and a whole range of other things, it would be expected that in an operational sense the sort of changes that the honourable member would expect to see will already be in place because work has already begun to ensure that the proper procedures are being put in place in the community. Over the next two or three years, of course, there will be vast improvements on what we have today. So, by the time the legislation itself is developed—and that is a very complex thing and it will be difficult to reach agreement nationally—operationally we would expect to see the right sort of procedures in place to deal with the concerns that have been raised.

The Hon. M.J. ELLIOTT: The Minister says that the Government will do something and that that will match up with the legislation in a few years, but we are not sure what it is. I will leave that matter for the time being, but I simply note that that concern has been raised with me and that I think it is significant.

There is some concern about deinstitutionalisation. One of the impacts of that will be a significant reduction in bed numbers. I qualify my comments by saying that I support the trend towards deinstitutionalisation, but with some qualifications, of course. What will the situation be if a patient wishes to be admitted voluntarily but is told that there are not enough beds? This is a fear that people have, and that suggests that it is something of a problem now, but as we down-size there will be a number of patients who realise that they need treatment and who may seek to admit themselves voluntarily. What will happen if they arrive at a hospital to be told, 'We have no beds available'?

The Hon. BARBARA WIESE: As I understand it, the whole policy thrust that is being pursued is not to reduce the number of beds available for people who need psychiatric services but rather to devolve those services to other hospitals and facilities where they are likely to be more accessible and needed more.

The Hon. R.J. Ritson: That's what people are sceptical about.

The Hon. BARBARA WIESE: What is happening is that resources are being freed up to relocate the services rather than to take them away. As to the sorts of issues that were raised by the honourable member in his previous question with respect to the follow up of people once they leave hospitals like Hillcrest, they are more likely to be taken care of and it is intended that they will be taken up as a result of the freeing up of resources, which is being brought about by this policy shift and the relocation of services.

Amendments carried; schedule as amended passed.

Title passed.

Bill reported with amendments; Committee's report adopted.

DEVELOPMENT BILL

Adjourned debate on second reading.

(Continued from 1 April. Page 1859.)

The Hon. M.J. ELLIOTT: I begin this speech by accepting that the Bill has been the culmination of years of work. I recognise that much hard work has gone into the Planning Review and the consequential proposed legislation. I say this because I recognise that this has not been an easy task and that there have been some very positive outcomes. However, I must stress as this point that I am extremely disappointed with much of the Bill. It has certainly not lived up to his high expectations, in my opinion, and I know that that opinion is shared by many.

It has disappointed me that the Bill passed relatively smoothly through the other place. After all the public attention that has been drawn to this proposed legislation, I would have thought it would have spent quite some time being debated in another place. The reason that this legislation is so important is that it was anticipated as a remedy to the development versus anti development problems that have occurred in South Australia over the past decade. Public brawls between developers and conservationists have dominated the development history of the past 10 years. These brawls prevented many inappropriate developments from proceeding, for example, Jubilee Point and the Mount Lofty cable car but, because of their divisive and polarising nature, they also prevented environmentally acceptable alternatives being identified.

I would argue that the Mount Lofty development, without the cable car, would have met much less public opposition and might have been constructed by now. I am not saying that it was a perfect development but, with that one major flaw removed, its chances of success would have been significantly enhanced. I would argue that the Wilpena development, if located perhaps five kilometres to the south and outside the national park and away from the immediately sensitive area in which it was to be located, would not have met anything like the public opposition that it met in relation to the proposed location. Once again, I have a preference for styles of development but, that aside, recognising that if a resort were to proceed, it would have had an excellent chance

of getting past the various hurdles were it to be established at a different location.

I would suggest that the Tandanya development if relocated 400 metres to the east of its current site would get over what is its most significant obstacle, that is, the clearance of native vegetation. That was always going to be the biggest single problem confronting that project. Unfortunately, it was many years before the problem was recognised, although certainly it was identified by many individuals a long time ago.

The time was right for a new development system to be established, one that offered greater satisfaction for both the development industry and environmental groups. It was anticipated that the Planning Review would provide such a system. It was with a great deal of positive anticipation that many others and myself awaited the outcome of the Planning Review. All the intentions of the review indicated that there were going to be changes for the better. This passage was seen as a holistic approach to growth and development and the review is to be commended on the extent of public consultation undertaken during the review period.

This encouragement of wide community involvement and the consultation undertaken with many groups was a promising sign. Therefore, it was with great disappointment that I read the initial draft of this Bill, because this legislation has totally missed the opportunity to usher in a new era of cooperation, to avoid the divisive arguments of the past and to make the concept of ecologically sustainable development a reality. I am not anti development. I have three young children who are going to have to find jobs in this State in the future, and I want to see jobs available. However, I do not believe we need to destroy the State in the process, and it is a matter of coming up with what many people now understand, that is, the concept of ecologically sustainable development.

The first draft of the Bill was little more than an appalling mix of the three Acts it was designed to merge, namely, the Planning Act, the City of Adelaide Development Control Act and the Building Act. Although I realise we have come a long way since then with many improvements made, I am still extremely disappointed with the final outcome. As the Opposition spokesperson, Mr Oswald, stated in another place, it was incredible that the Government expected this Bill to be debated properly when the final draft of the regulations was not available in the Lower House. Only in the past four days have they become available to members of the Legislative Council. The regulations constitute a comprehensive document, especially in the area of planning and building, where the regulations provide much information and specify many essential details.

I find it ridiculous that we are debating probably the most important piece of legislation for this State in the current session when we have not had a proper opportunity to see a major part of the legislation. Also, I would argue that the Government cannot expect proper debate on the Bill until members have had the opportunity to see the final draft of the proposed Environment Protection Bill. Obviously, these two pieces of legislation go hand in hand and, in many areas, depend on each other's operation. It is very disappointing that the Government has not realised the importance of seeing the draft Environment Protection Bill in the context of debating this Bill.

Before going into more of the detail of the legislation, I wish briefly to outline the main areas of concern that I have. My first concern is with aspects of the planning strategy, and in particular the preparation of the strategy. I stress at this point that I support the concept of a planning strategy. Such a strategy will go a long way to coordinate the policies involved in planning, which are currently spread over many pieces of legislation and between many agencies responsible for this area. The strategy will also provide an excellent framework for the future development of this State. It will clearly indicate the intentions of the Government for the future. It will provide developers and the public alike with a statement of what the Government would consider to be an appropriate direction for the State. It would indicate what type of development would be preferred for certain areas of the State and this would be extremely valuable for the development industry.

However, despite my support for the notion, I do have some serious concerns with the planning strategy as it currently stands in the Bill. I will discuss these further later. One of my most serious concerns with the Bill lies in the amount of ministerial discretion that is provided. Obviously, I recognise that planning involves a large degree of discretion by its very nature. The legislation must be flexible enough to allow for this. However, I am definitely of the view that many of the problems of the past in the development context have to a large degree been increased by the amount of discretion in the Minister. A prime and recent example of this is Craigburn Farm. This controversy was essentially caused by the extent of ministerial discretion used-discretion that I would say was abused. The Minister used powers under the Planning Act to prepare a supplementary development plan for an area falling within two council areas. This was used almost exclusively to make changes to only one council's development plan. The plan was then given interim effect, meaning that consultation with residents was effectively disposed of. Of course, within 24 hours of being given interim effect a development application had been lodged, so further public consultation was effectively meaningless, anyway.

This type of use of a discretion does nothing to avoid major disputes and the speed with which the development goes through the system. On the contrary, it leads only to community distrust and antagonism, and it makes the exercise considerably more complicated and drawn out. Yet, this Bill does nothing to remedy such misuses of discretion. In fact, if anything, it increases the amount of discretion available to the Minister. Again, I will speak in more detail about this later.

The extension of ministerial discretion also contributes to a lack of certainty with respect to development authorisations. Although greater certainty was one of intentions of the Bill, it is my opinion that it is not being achieved. Development authorisation is still left largely to the discretion of the appropriate planning authority. There are no real guidelines for applicants to follow to determine how likely it is that they will be given authorisation.

Related to the concern about ministerial discretion is the problem of the Government's continued refusal to be

bound by the same planning authorisation requirements as other people. This is simply unsatisfactory. The Government is hailing this system as a remedy to current problems, stressing that authorisation will be simpler and speedier and a one—stop-shop. So why is it that the Bill contains a different procedure for developments undertaken by the Crown? I do not see why Crown developments cannot be put through exactly the same procedure for development authorisation as other developments and, if necessary, regulations may exempt certain developments from the need to be authorised or from the definition of development in the Bill.

It has been a great disappointment to me that the concept of ecologically sustainable development has only really been given tokenistic lip service in this Bill, although it was quite clearly a matter recognised in the Planning Review itself. The Earth Summit in Rio last year highlighted the need for principles of ESD to be implemented by governments, yet here the Government has been given the perfect opportunity to work ESD into this legislation and thus into the whole planning regime of the State but has failed to do so.

In addition, the intergovernmental agreement on the environment, signed by the South Australian Government last year, clearly recognises the importance of planning ESD. This agreement actually sets out principles of environment policy in section 3 of the agreement. It is essential for principles of ESD to be worked into the provisions of this Bill. This could easily be accommodated in planning strategy and development plans. It is also astounding that the Government has failed to take the opportunity in this Bill to improve the system of environmental impact assessment. It is now nearly seven years since the report of the review committee into the environmental impact assessment was released.

That report criticised the existing procedures for environmental impact statements and made comprehensive recommendations for reform. What do we see seven years after this report? Virtually exactly the same system for EIA with some minor improvements in the form of preparation of an assessment report by the Minister. It is my firmly held belief that both developers and the public would benefit from a more thorough EIA process. The present process is perceived and known to be subject to political and bureaucratic manipulation. Public input is token at best and scientific analysis is often deficient. Any assessment process which purports to examine environmental effects of a development proposal must be independent of the body responsible for approving or rejecting the proposal. The assessment body must have or have access to the scientific knowledge necessary to undertake a thorough investigation and it must involve the public in a meaningful way. Its communications with the relevant planning authority about its findings must be transparent.

The EIS must also be followed up by continued monitoring of the environmental effects of the development. With the involvement of an independent body responsible for EIS, and not I must stress for final planning decision, the developer will be given an early opportunity to discover whether there are likely to be any major problems with the development. This will save the developer much time and expense. I will outline what changes I feel should be made in more detail later. The composition of the statutory bodies under the Bill should have wider expertise, especially the Development Assessment Commission. It must have representatives from an environmental group, I would suggest. Finally, some of the building provisions are of concern to me, particularly in relation to inspection by independent experts.

Before I add more detail to the concerns I have expressed, I think it must be stressed that these concerns are not mine alone. Since the draft Bill was released I have undertaken my own process of consultation, which has included meetings with the Chamber of Commerce and Industry, planners, environmental groups, environmental lawyers, local government and builders. Although this represents a vast array of different interests, it was extremely interesting to note the amount of common ground that these groups have. Obviously, there are some issues about which there was no agreement, and this will always be the case. However, I consider this area of common views to be especially important to bear in mind.

Some of the things that all groups agreed about were the need for certainty in planning, the related need to look at the extent of ministerial discretion and the irregularity of Crown not being bound by the same procedures. There was also general agreement in support of the planning strategy, but a need to ensure consultation in the preparation of the strategy was identified. That such a diverse group of interests, all intricately involved in the planning system, could find agreement about these things is a telling tale. I think it would be irresponsible of us as legislators to ignore their concerns. These are the people who deal with planning and it effects every day. They know the problems with the existing system and they can anticipate problems with the new system. These people are deeply concerned with some of the provisions in the Bill as it stands.

I will begin perhaps with the most notable change in the system, the planning strategy. As I indicated earlier, I am in support of the strategy as a concept, but because of its very nature and its effect on development plans it is essential that it be prepared with community involvement. The Bill gives little indication of how the strategy is to be prepared, and although the Planning Review, commendably, went through extensive public consultation, there is no guarantee of this recurring under the Bill. It is acknowledged that the strategy is not a statutory document. However, its preparation is provided for by the Bill and it would not be inappropriate to make public participation a statutory requirement as the Government would continue to have discretion as to what form the consultation would take. We must not allow this document to be changed purely to facilitate the desires of the Government of the day. As the Bill currently stands, the strategy could be changed purely at the whim of the Government. The consequences of this are potentially disastrous since the planning strategy is so pivotal to the whole system under this legislation.

The Government has the ability under this Bill to change the planning strategy with no consultation with the community or local government, and because clause 23(3) provides that a development plan should seek to promote provisions of a planning strategy this means that

the development plans may be changed without the agreement of local councils. Thus, if the Government desired a development in a particular area it could alter the strategy to provide for such a development and consequently alter the plan under clause 22 to facilitate the development. This could be achieved with no input from local government or the community. The potential for abusing the system with this discretion if huge. The implications of the strategy are far too important to allow it to be changed with no consultation. Thus, I feel there must be some specific process of public consultation worked into the Bill.

The current requirement for a report by the Premier is not sufficient to guarantee adequate consultation. The proposed strategy should be required to be put on public display and there should be public meetings about the contents of the strategy. As I mentioned earlier, one of the major concerns I have with the Bill is the amount of ministerial discretion that is allowed. Let me point out some specific examples of this. The most outstanding example of ministerial discretion is in relation to the amendment of development plans. Clause 24 allows a Minister to make an amendment to a development plan in certain circumstances.

As I indicated earlier, one of these circumstances relates to an area of two or more councils, and this is what has led to the farce in relation to Craigburn Farm. In my view there is really no need for the Minister to prepare an amendment under clause 24(b) unless a council is demonstrating undue delay in preparing an amendment. I believe that where an amendment relates to two or more council areas the councils themselves should be able to prepare the amendment. There could be a provision allowing a Minister to make an amendment where there is undue delay, as is the case under clause 24(a)(iv). The Bill should contemplate the ability of two or more councils to work together to prepare a plan amendment.

The current ability to make an amendment because the Minister considers that an amendment is appropriate because of a matter of significant social, economic or environmental importance is also continued in clause 24. It is left entirely to the Minister to decide whether a development is significant enough to fall within this category. Clearly, this provision and the others give the Minister the ability to alter a development plan to facilitate a development in which the Government has a particular interest or involvement, despite opposition from the community. I would not be against the use of discretion in planning matters if an adequate check of this use was provided in the legislation. Such a check is lacking.

Clause 26 details the procedure for an amendment by the Minister, and clause 27 attempts to give Parliament some ability to scrutinise the amendment. This provision is clearly inadequate. First, the matter does not even come before Parliament unless the Environment, Resources and Development Committee resolves to object to the amendment. That is not satisfactory given that the Government ultimately has control of this committee and could use it if it chose to. Furthermore, the amendment may cease to have effect only if both Houses of Parliament pass resolutions disallowing the amendment. This is an alteration to the existing legislation which allows for a disallowance by the resolution of only one House. As Mr Oswald in another place said in his second reading speech in relation to this provision, this provision serves to undermine the role of this Council as a House of Review. I will certainly be pushing for an amendment to change the requirement to only one House of Parliament.

Of course, one other difficulty at present is that it is the Minister's discretion indeed whether or not the development plan ever finds its way to the Environment, Resources and Development Committee to start off with. So, where a Minister may choose to abuse his discretion—unfortunately there have been examples of that already in recent times—there is a process for gross abuse and this Bill not only fails to address it but exacerbates the situation.

I am also in favour of treating amendments to development plans in a similar way to regulations, thereby allowing each House always to examine the proposed amendment. In addition to this wide discretion, amendments may still be given interim effect by the Governor which can be positive where the action is stopping a local government from undertaking activity which is undesirable from a State-wide perspective but which also can be negative where it is used to implement some proposal that the Government wants to proceed without local council knowledge.

I might illustrate each by example. In relation to the Mount Lofty Ranges review, there was a necessity for the Government to introduce a development plan. It needed to do so without consultation and ultimately needed to give it interim effect. What they were seeking to do at that stage was stop undesirable development. If the community had been forewarned of such plans then there would have been massive applications for development and the horse would have bolted before the gate was shut. There is a case for interim effect of a development plan, and the Government is seeking to stop undesirable development. Now, the other way of using interim effect is actually to encourage a development to occur, and that is precisely what we saw at Craigburn Farm, where interim effect was given to a development plan, the developer lodged an application within 24 hours (which was an amazing coincidence), and the legal rights for that development were then cemented, regardless of any future outcome of any other decision.

That, I would argue, is an abuse of interim effect. It involved interim effect being used by the Minister to make sure something happened regardless of due process rather than using interim effect from stopping something from happening so that it can be further examined.

It is widely known that the Governor acts on the recommendation of the Minister or Cabinet in exercising such powers. If the Bill was changed so that the decision was said to be the Minister's, at least the Minister would then be accountable to Parliament for the actions. As it stands, there is no appeal against the decision of the Governor.

Another area of ministerial discretion is the discretion to decide whether an EIS is required under clause 46. I will discuss this later in the context of the EIS procedure. I mentioned earlier that one of the problems that received consensus from representatives of many groups involved in planning is the lack of certainty in the

legislation. Clause 33 details the matters to be taken into account by the relevant planning authority in assessing a development. The problem that has always been encountered here is that the development is to be assessed against the provisions of the relevant development plan. Some development plans are extremely good while others are very vague and general. For this reason, this legislation should adopt definite and specific criteria against which the development can be measured, in addition to the provisions of the development plan.

Principles of ecologically sustainable development should be included, as should principles of locational equity, protection of the diversity of local flora and fauna, and the sustainable use of resources. It seems to me that the planning authority would be aided in making its decision about authorising a development by adding to the categories of 'complying' and 'non-complying' developments a third category of prohibited developments. These developments, unlike the current prohibited category, would be definitely prohibited in a particular zone and given an outright rejection from the beginning. Such a category would ensure that applicants do not waste time and money detailing their plans when there is no chance of the development receiving approval.

Moving on to the area of Crown developments, the planning review's final report stressed that Governments should be bound to submit development proposals through an approval process and to be judged against the same development policy as applies to private developments. Despite this, it is clear that development by State agencies is not the same as for private developers. Under clause 49 of the Bill, the State agency must submit its application to the Development Assessment Commission which then prepares a report for the Minister. The Minister then decides whether to approve the development. The Minister has the power to approve an application to which a council is opposed or which the commission considers to be seriously at variance with the relevant development plan, as long as the Minister presents reports on the matter to both Houses of Parliament.

Most significantly, there is no appeal against the decision of the Minister. Those aggrieved by the decision must rely on political processes to provide some sort of remedy, which is an extremely inadequate and uncertain course of redress. A more substantial avenue of appeal should be provided for Crown developments, which we all know are often significant and involve major impact. It is my view that Parliament should be given the opportunity to scrutinise the decision made by the Minister and, where appropriate, be able to disallow development by the same process as we disallow regulations.

I would like to move now to the area of environmental impact assessments, an area that regrettably has been largely ignored in this debate and, indeed, in the whole planning review. This is unfortunate, as I see the area of EIA as extremely significant. I outlined earlier that, despite major changes recommended by the 1986 report of the Review Committee into Environmental Impact Assessment, this Bill seeks to perpetuate many of the existing problems. Under clause 46 the need for an EIS as part of the development authorisation process depends upon the discretion of the Minister, as is the situation under the current Planning Act.

In my view, the procedure would be significantly improved if the decision were to be made at arm's length from the Minister and the planners responsible for final decision on the fate of the proposal. Such a provision would avoid ridiculous situations such as that of the Tandanya project on Kangaroo Island, where the Minister decided that an EIS was not required, since an SDP had been prepared.

At this point I would also like to comment on the suggestion made by Mr Oswald in the other place that an EIS need not be required for complying developments. This is obviously ludicrous. This is suggesting that complying developments all have no environmental impact, which is clearly not the case and is a very shortsighted view. In my opinion, the decision whether an EIS is required should rest with an independent specialist body such as the proposed EPA. In fact, this is the situation currently occurring in Western Australia. The EPA could assess the likely impact and decide whether an EIS is necessary and what it must include to address the problems identified.

Specific guidelines should be laid down to help in the determination of this question. Using guidelines such as those suggested in the 1986 report would mean that the decision was less discretionary. If the EPA did decide that an EIS was necessary, it would supervise the whole procedure, meaning that the assessment process would then be seen to be independent of the final decision on the development's future. Once the EPA had collated information from the proponent and from the public, it would then report formally to the Minister and planners. Transparent lines of communication between the EPA and the planning authority are vital to ensure that all relevant information is passed on and that there is no suggestion of modification to suit political interests.

Such a system would also provide more certainty for developers, who would know what issues needed to be addressed in the EIS and that they would be looked at in an objective and non-political forum. Public input in the EIS process would be improved with the inclusion of public hearings.

Once the EIS has been prepared, the role of the EPA is over. The decision on the fate of the proposal would rest entirely with the Minister and the planners. The EPA would also only comment on environmental matters, leaving social and economic matters to be assessed by experts in those areas.

Such an independent expert assessment would be a great improvement to the existing system, which is open to political discretion and manipulation. If confidence is to be gained in this area, the responsibility for an EIS must be at arm's length from the ultimate decision maker. The process I have proposed would comply also with the Intergovernmental Agreement on the Environment. I want to make it clear that I am very unhappy with the existing procedure. Obviously, I understand that a new system requires research and debate. However, I have outlined what I see to be an improved system to illustrate that there are ways to cure the deficiencies in the current setup.

If the clause is passed as it stands, I will be pushing for later inquiries into the system with a view to an ultimate amendment of the clause. Of major concern in this Bill is its apparent deletion of the requirement that buildings be inspected by independent inspectors. Under the current Building Act all building work within the area is subject to the supervision of the building surveyor employed by each council. The surveyor has the ability to enter and inspect premises in order to determine whether the building work complies with the requirements of the Act.

Incredibly, there is no requirement in the Bill that premises be inspected by building surveyors. Under clause 59(2) of the Bill the owner may be required to make a statement that building work is being carried out in accordance with the requirements of the Act. There is no provision for any independent judgment of this. This seems incredible to me. I have talked with building inspectors who have related horrific stories of inadequate building work which would have been left unnoticed had it not been for their inspection. Surely it is in the public interest to ensure that all new buildings are inspected by an independent person who has the expertise to assess buildings for any errors that may be dangerous.

It seems that, as the Bill stands, it is failing to meet its objectives set out in clause 3(f), namely, to enhance the amenity of buildings and to provide for the safety and health of people who use buildings. The safety of owners and visitors will be in jeopardy if the Bill does not provide for some independent assessment of the building work, and I will certainly be pushing for an amendment to this section.

I wish to comment on the composition of the Development Assessment Commission established by clause 10 of the Bill. The clause provides that the commission will consist of a person nominated by the Local Government Association (LGA), a person with experience in urban development etc., and a person with experience in environmental management. I do not believe that this brings to the commission wide enough representation. Certainly, there should be a person who is experienced not only in environmental management but also in environmental conservation. Such a person should be nominated by the Conservation Council.

There also needs to be broader community representation. In the other place the Opposition suggested that a person be nominated by an organisation that, in the opinion of the Minister, is concerned with the provision of facilities for the benefit of the community. I am in agreement with this suggestion. Finally, I believe that the planning industry needs greater representation. Planners may be represented by the LGA, but the LGA representative is concerned foremost with local government issues. This may not necessarily be just planning issues.

A member of the commission should, I believe, be nominated by an organisation such as the Royal Australian Planning Institute. I reiterate that I believe this is one of the most important pieces of legislation for this State. It should be thoroughly debated and very carefully considered. This is especially so since many of the groups that deal with planning and building have expressed concerns about provisions of this Bill. It is essential that we take heed of their warnings and concerns before passing this legislation. In the seven years that I have spent in this place I have found the development/anti-development debate the most frustrating of the debates in which I have been involved; it was frustrating because so much of it was avoidable.

What I see is that the Government has tried to avoid the debate, if you like, by enhancing ministerial discretion and certain other changes in the legislation. I guarantee that that will not reduce the debate but exacerbate it. I believe that South Australia can continue to develop, can produce many more jobs and, at the same time, do so in a way that satisfies the community. It is a matter of coming up with a process which provides certainty, which is fair and which is equitable.

I believe at this stage that this legislation fails dismally in this area. It is capable of amendment, although I must say I express concern that we are doing it once again, as with so many important pieces of legislation, during the dying stages of the session. Other legislation that should have been dealt with concurrently, such as the Environment Protection Act, has not even surfaced in Parliament yet, and the draft regulations have only now been made available to us.

As I said, the key issues, particularly in relation to environmental assessment, simply have not been addressed at all. I personally believe there is nothing to be gained by rushing the legislation through. We do have something that we can work on and which can be improved, but I think we have to get it right the first time, and I believe that we can, with the right goodwill. I note that there is some overlap already of my amendments and those of the Opposition. I hope that both they and the Government will give consideration to some of the other issues that I have raised, because this is an extremely important piece of legislation. It will affect future development in South Australia and we can do it, I believe, to the satisfaction of the vast majority of South Australians. We can do it sensitively. I support the Bill at this stage, noting that I prefer it to be laid over during the break and that there is still a need for some substantial amendment.

The Hon. DIANA LAIDLAW: I support the second reading of this Bill and I would like to commend the Hon. Mr Elliott for his thorough analysis of it. While there may be some disagreement between the Liberal Party and the Australian Democrats on a number of the specifics in terms of amendments, I believe that many of his misgivings about the manner in which the Government is assuming unto the Minister increased powers are relevant. I also share his concern that statements about simplifying the procedure are unsound. I also agree with the Hon. Mr Elliott that this is a major Bill. It is a Bill that will influence the future character and economy of South Australia, and I sincerely hope that it will address the frustration that so many South Australians have experienced when they have been associated with a development, whether it be as a developer, a neighbour, a local council, a local community or even as a member of Parliament.

It is my intention tonight to make just a few general comments in relation to this Bill. I would like further time to speak to some of the amendments that we will be moving. There may well be further amendments that the

Liberal Party will be moving to this Bill because I am continuing to receive representations from a wide range of groups, including the legal profession. Again I share the concerns of the Hon. Mike Elliott that, because of the intense interest in this Bill and the importance of it, it is somewhat difficult for a person like me, for whom the development and planning industry is not the sole or primary interest in my political life, to come to terms with so many of the matters that are being debated in this Bill and are being addressed to me by representation.

The Bill is based on three broad and laudable principles. The first principle is that the physical development of metropolitan Adelaide and the rest of the State must be based on strategic planning for the future, and must relate to the overall economic, social and environmental strategies for the State as a whole. I indicate that in the Liberal Party's view that is a laudable goal because planning and development cannot be isolated from all the other factors of society, and I find this one of the most difficult issues when addressing representatives of the development industry—they believe that their interests alone are paramount, and because they are the ones putting the money into the development, they often forget that so many people are affected by the decisions that they make. Money alone must not rule this debate about development in our community and the impact of development. There are many goals and many interests that must be considered, so I do applaud this broad objective established by the Government.

The second principle governing the framing of this Bill is that any conflicts which arise must be resolved quickly and with certainty, and again that is a commendable goal. After the experiences that so many developers, interested parties and the like have had with major development in this State, particularly where the Government has been involved, it would be a relief to all if conflicts could be resolved quickly and with certainty.

The third broad principle is that the systems and processes established to implement the objectives must be as simple as possible, visible and fair. No-one would quarrel with that objective. Certainly, the need for simplification of both the planning regime in general in South Australia and the principles for obtaining planning approvals in particular are obvious. However, as one interested observer, who was in fact not a representative of the developer category, said to me when reflecting on this Bill, 'If this Bill comprising 95 pages, 107 clauses and a schedule for making regulations represents simplified procedures, heaven help the State.' I would echo that remark after seeing the range of amendments that I have placed on file together with those that have now been placed on file by the Democrats. My friend has not had the opportunity to see all those amendments in addition to the range of matters covered in this Bill.

Indeed, the provisions of this Bill are complex. I would argue that they are also rigid to a large degree and often bureaucratic, although in some critical areas there is wide discretion for the Minister, and I have some difficulties with that. Large councils such as the Adelaide City Council—and perhaps I should declare an interest in this, as I am a ratepayer in the Adelaide City Council area—have maintained that the object of streamlining procedures for applicants is likely to be hindered and not helped by this legislation.

It is also difficult to debate this Bill in isolation from other pieces of legislation. Since this Bill was debated in the other place in late March the regulations have been finalised and I do commend officers of the department because I believe that they must have worked overtime in recent weeks to provide us with these regulations.

The Hon. Anne Levy: Around the clock.

The Hon. DIANA LAIDLAW: Yes, around the clock, as the Minister says. I do thank them and the Minister for doing so. I have had a look at the regulations in some specific areas that were of particular concern to me. However, we have not yet received the final version of the Government's strategic plan, and that is critical to debate on this legislation and will be central to the future integrity of our planning system. I had reason to refer to the strategic plan earlier today when addressing a private member's Bill that had been moved earlier in the session by the Hon. Mr Elliott in respect to the preservation of public open space. It is my firm view that this strategic plan should address such issues as—

The Hon. M.J. Elliott: It has no force of law.

The Hon. DIANA LAIDLAW: I know that it has no force of law, and that is one matter that we have to debate during the Committee stage of this Bill. However, essentially this entire Bill was based on a strategic plan which I believe should not be just the province of Government, but should be open for public consultation, just as the preparation of *2020 Vision* was open for public input and consultation. I believe the Government certainly must have the final decision on what is in that strategic plan, but that it must be open for that consultation, and that once that final decision is made there is some force of law given to that strategic plan.

As a Liberal I might find that particularly uncomfortable if we inherit a strategic plan developed by a Government of another persuasion, but in the interests of development and the long term future of this State I believe it is important that this strategic plan be developed in consultation with the community with the final decision being made by the Government and with that decision having some force in law when local councils develop their own development plans. Therefore, I feel very strongly that issues such as preservation of our parklands and the creation of second generation parklands must be addressed in this strategic plan and then flow through to the development plans for each local council area and, as appropriate, on a regional basis.

I am concerned that at this stage we do not have the final version of the Government's strategic plan. I am concerned also that we do not have before us the Environmental Protection Authority Bill (the EPA Bill), which it was promised would be introduced with this Bill. I think it is important that the Environmental Protection Authority Bill be canvassed with the Development Bill. As I indicated earlier, if the Government is to be seen to be sincere in its belief in respect of this Bill that development must relate to the overall economic, social and environmental strategies of the State, we should debate the Development Bill in tandem with the Environmental Protection Authority Bill.

The Government introduced the Heritage Bill in the other place after the Development Bill was debated in that place. Although the Heritage Bill is before the

Parliament, it is somewhat of a pity that it was introduced at a later date and that it will be the responsibility of another Minister, because it is the Liberal Party's belief that there are some basic discrepancies or shortcomings, even conflicts, between the Heritage Bill and the Development Bill. That need not have been the case if the Development and Heritage Bills had been prepared together. Preferably, we would have liked to see the EPA Bill developed by the same person in Parliamentary Counsel with its being the responsibility of the same Minister, but at least with some discussion between Ministers so that some of these basic discrepancies could have been resolved before they will have to be debated in this place.

South Australia has a long tradition of being concerned with conscious planning of our urban and physical form. This long tradition goes right back to the days of Colonel William Light who, as South Australia's first Surveyor-General, was the man responsible for deciding the siting of Adelaide. He laid out new planning principles based on a grid of wide avenues and a surrounding belt of parklands. Light's vision of Adelaide is revered by all South Australians who prize quality of life issues. I think I can speak for the Minister, who like me is a resident of the City of Adelaide.

The Hon. Anne Levy: I have only one vote.

The Hon. DIANA LAIDLAW: And I also have only one vote. Light's vision for residents of the City of Adelaide is something of which we are direct beneficiaries and something that we revere and will fight with a passion to maintain in sentiment but also through many legislative means. Light's vision may have been able to be sustained without the benefit of statutory law for many years until about the 1950s when Mr Stuart Hart was appointed to look at the means by which we could embrace so many sentiments about urban form and community goals within legislation. He prepared a plan for Adelaide, and that plan has essentially formed our planning and development policy for the past 30 years. In 1967, the Parliament passed the Planning and Development Act based on Mr Hart's plan. In 1978 the then Minister (Mr Hugh Hudson) once again commissioned Mr Hart to produce a further report this time relating to the control of private development. The latter report formed the basis of the current Planning Act of 1982.

In addressing the Development Bill this evening, I think it is important and interesting to note the high hopes and expectations that MPs of the day in 1982 had for the planning Bill of that year. I refer to the second reading explanation of the then Minister (Hon. D.C. Wotton) where he said:

> This Bill is designed to give effect to the Government's policy of ensuring that planning and environment management requirements and procedures reflect the wishes of the community. In particular, the Bill aims to simplify existing planning laws, integrate planning and environmental decision making, streamline the decision making process and provide more flexible methods of regulating development in both urban and rural areas.

Those sentiments were expressed by many members throughout the course of debate. What is of interest to me is that those same sentiments are being expressed 10 years on in debate on this very Bill. So, somehow with the best will in the world in 1982 the desire to simplify the existing planning laws, to integrate planning and environmental decision making and to streamline the decision making process was not achieved. I have grave misgivings that the same sentiments expressed in relation to this Bill will not be achieved. I would, therefore, at this stage like to leave my general remarks on this Bill, and at a later stage I would like to develop more detailed comments on specific aspects of it.

Before I seek leave to conclude my remarks, I add that because of my current shadow portfolio of transport I have an added reason to be particularly interested in planning and development law in this State. I have a great deal of sympathy for those who argue that our railway and other transport corridors must be used far more efficiently and effectively for urban planning and industrial development purposes in the future and that we should model ourselves on a number of other cities which have used public transport for the benefit of the community as a whole by using it as a catalyst for housing and industrial development. I think we have a lot to learn in that field, and Bills such as this current Development Bill can be very effective in terms of encouraging such unified goals through transport which, in turn, can have positive environmental side effects. I seek leave to conclude my remarks later.

Leave granted; debate adjourned.

MUTUAL RECOGNITION (SOUTH AUSTRALIA) BILL

Adjourned debate on second reading.

(Continued from 1 April. Page 1878.)

The Hon. K.T. GRIFFIN: The Opposition indicates support for the second reading of the Bill, but only to enable it to move a number of amendments at the Committee stage. If those amendments, or a substantial number of them, are not carried, we indicate that we will oppose the third reading. That is not to say that we are not sympathetic to the objective of the Bill, which seeks to provide a mechanism by which barriers relating to the sale of goods from one State to another can be broken down and that barriers to the practising of a trade or profession in one State, where qualifications have been obtained in another State, can be broken down.

The objective is good but the way in which it is proposed to implement it is fuzzy and, whilst there are some good aspects to the scheme, there are other substantial detriments, not the least of those is that the substantive law is vested in the Commonwealth and the administrative law is with the Executive arm of Government. Once the State Parliament passes this legislation or legislation similar to it that is largely the end of the role that the State Parliament will play in the substantive law.

The scheme is that the Commonwealth has passed an Act and the States are requested to adopt the Commonwealth's substantive law and to refer power to the Commonwealth under the Australian Constitution and amendments thereafter to the substantive law will be made by the Commonwealth with the approval of an officer or official designated in State legislation. This

Bill designates the Governor, which clearly puts the responsibility for amendment to the substantive law with the Executive arm of Government and not with the Parliament of this State, as I believe it should be, that is, with the Parliament. I will deal with that in more detail later.

This Bill is South Australia's part of the package of the Commonwealth and State legislation. It deals with the mutual recognition of regulatory standards for goods and occupations. It arose out of a special Premiers' Conference in October 1990. Members will remember that the then Prime Minister Mr Hawke got the Premiers together—there was then a majority of Labor Premiers but that has dramatically changed in the past year and a half, for the good, and we hope that in the not too distant future there will be yet another State changing its colour and attending a subsequent Premiers' Conference—at a conference that he convened and, as a result, many good things were said about the need for a rationalisation of State and Commonwealth powers in order to avoid duplication. Mr Hawke even suggested that there may be a transfer of some responsibilities from the Commonwealth to the States. Of course, that is in deep and significant contrast to the view of Mr Keating, who wants to take all control in his hands—in the hands of Canberra—and not enter into a spirit of true Federal cooperation, as Mr Hawke in his later days was proposing. Unfortunately, his somewhat belated conversion to federalism was not to show much by way of results prior to his removal from office by his successor.

The Hon. R.I. Lucas: It was part of Keating's campaign to destabilise Hawke.

The Hon. K.T. GRIFFIN: It was certainly part of Mr Keating's plan to destabilise the then Prime Minister. I would like to think, notwithstanding all of the drumming up by the Prime Minister on issues of republicanism, which will have a direct bearing on the States and their relationship not only to each other but to the Commonwealth, that we can gradually move towards some sensible rationalisation of the provision of services by Governments at State and Federal levels. There is extraordinary duplication at the Federal and State levels in areas of education, health, mines and energy, transport and a variety of other areas, duplication which should not occur, and I suggest that such services can more properly be provided by States at the State level. There is a great tendency for bureaucrats in Canberra, as well as politicians, for that matter, to believe that they have all the answers when in fact they are very much isolated from the real world in their billion dollar resting place and are generally isolated from the day to day problems that State members of Parliament are required to address in representing constituents and in providing Government leadership.

The Hon. R.I. Lucas: In the real world.

The Hon. K.T. GRIFFIN: That is right. The Commonwealth and State Governments—

The Hon. C.J. Sumner interjecting:

The Hon. K.T. GRIFFIN: We see a lot more than you do.

The Hon. C.J. Sumner: That would still not be too many.

The Hon. K.T. GRIFFIN: The Commonwealth and the State Governments claim that the principal aim of this package of legislation is to remove needless artificial barriers to interstate trade in goods and the mobility of labour caused by regulatory difference between Australian States and territories. They say that mutual recognition is expected to greatly enhance the international competitiveness of the Australian economy and is a major step forward in the achievement of microeconomic reform. Whilst the aim is good, I suggest that the mechanism for achieving the aim is objectionable and the benefits which are going to arise from this package have been substantially exaggerated. In fact, following the letter that the Deputy Leader in another place received from the Premier on 20 April, it seems to me that it is going to increase bureaucracy in many respects and there will be devices established by State Governments and others to get around the flexibility proposed by this package of legislation, but I will deal with that later.

The scheme basically is that the Commonwealth Parliament enacted the Mutual Recognition Act 1992, which was assented to on 21 December 1992. This contains the bulk of the substantive law. State complementary legislation adopts the Commonwealth Act under section 5lxxxvii, which allows the Commonwealth to legislate on matters referred to the Parliament of the Commonwealth by the Parliament or Parliaments of any State or States, but so that the law may extend only to States whose Parliaments the matter is referred or which afterwards adopt the law.

The State legislation also refers powers to the Commonwealth to legislate in so far as the Commonwealth does not have power. The State legislation continues for five years but may be terminated after the expiration of that five-year period by a State by proclamation after notice has been given. The Commonwealth Act may be amended, but such amendment becomes binding on the State only when the Governor by proclamation approves the terms of amendments of the Commonwealth Act. It should be noted that the approval of the amendments is an executive act, as I have already indicated, and not an enactment of the State Parliament.

The reference of power to the Commonwealth is a matter of concern. I hold the view that South Australia ought not to be referring power to Canberra so that Canberra can, in effect, control the legislative environment on matters which effect South Australia. There is only one previous occasion that I am aware of where power was referred and that related to the Family Court dealing with ex-nuptial children. I understand from colleagues interstate that the new Western Australian Government has not yet decided what it will do with the legislation, whether there will be any State mutual recognition legislation and, if so, in what form.

I understand that it does not propose to refer legislative power to the Commonwealth. If it does anything, it will, as I understand it, be enacting State legislation to move gradually towards mutual recognition and building in certain protections against the trend which will undoubtedly develop under this scheme towards the lowest common denominator standards. The Victorian Government has introduced legislation into its

Parliament. But that is legislation to adopt Commonwealth legislation rather than to refer power to the Commonwealth. But by that mechanism it firmly maintains control of the agenda at all times.

While the second reading explanation accompanying this Bill said that the Commonwealth Mutual Recognition Act 1992 was part of the schedule to the South Australian Bill, that was certainly not the case in the House of Assembly, and as far as I can see it is certainly not part of the Bill that we have received. I would be interested to know what the Government's intention was, whether it had intended that the Commonwealth Act be annexed as a schedule or whether that was an error for some reason which occurred in the second reading speech.

The scheme of the Commonwealth Act is rather complex, but I think it is important to run through it in outline. Goods which can lawfully be sold in one State or Territory may be sold freely in another State or Territory even though the goods may not fully comply with all regulatory standards in the place where they are sold. If a person is registered to carry on 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. Goods produced in or imported into another State or Territory that may lawfully be sold in that State or Territory may also be sold in South Australia either generally or in particular circumstances without the necessity for compliance with the following requirements imposed by or under South Australian law:

(a) that the goods satisfy South Australian standards relating to the goods themselves, including requirements relating to their production, composition, quality or performance;

(b) that the goods satisfy South Australian standards relating to the presentation of the goods, including requirements relating to their packaging, labelling, date stamping or age;

(c) that the goods be inspected, passed or similarly dealt with in or for the purposes of South Australia;

(d) that any step in the production of the goods not occur outside South Australia; and

(e) any other requirement relating to sale that would prevent or restrict or that would have the effect of preventing or restricting the sale of the goods in South Australia.

There are some exceptions from the mutual recognition principle and they are as follows:

(a) so long as South Australian laws apply equally to goods produced in or imported into South Australia the South Australian laws regulating the manner of the sale of goods in South Australia or the manner in which sellers conduct or are required to conduct their business in South Australia continue to be applicable;

(b) South Australian laws regarding the transportation, storage or handling of goods within the State continue to apply provided they are directed at matters affecting health and safety of persons in South Australia or are aimed at minimising or regulating environmental pollution in South Australia, and the laws apply equally to goods produced in or imported into South Australia;

(c) South Australian laws relating to the inspection of goods continue to apply provided that the inspection or the requirement for inspection is not a prerequisite for the sale of the goods in South Australia, and such laws apply equally to goods produced in or imported into South Australia and are directed at matters affecting health and safety or at preventing, minimising or regulating environmental pollution in South Australia;

(d) Firearms or other prohibited or offensive weapons, fireworks, gaming machines and pornographic material are excluded from the operation of the Commonwealth Act; and

(e) there are permanent exemptions for South Australian laws relating to quarantine, and the Commonwealth Act excludes from its ambit the Clean Air Act (Part IIIA) the Beverage Container Act and classification legislation relating to pornography.

Where an occupation in another State is the subject of registration, a person who is registered in that State may lodge a notice with the South Australian registration authority for the equivalent occupation seeking registration in South Australia. A person lodging a notice is entitled to be registered in South Australia as if the South Australian law that deals with registration expressly provided that registration in the other State is a sufficient ground of entitlement to registration. Once the person is registered in South Australia the entitlement to registration continues whether or not registration ceases in the home State. Registration in South Australia continues, subject to South Australian law to the extent to which that law applies equally to all persons carrying on or seeking to carry on the occupation under the law of South Australia and the law is not based on the attainment or possession of some qualification or experience relating to fitness to carry on the occupation.

The Hon. R.I. Lucas: What does that bit mean?

The Hon. K.T. GRIFFIN: I think it means that, provided the law relating to registration in South Australia applies equally to all persons carrying on an occupation under the law of South Australia, then it may continue to apply; but there is that exception. I think what it means is that if to practise, say, as a legal practitioner or to carry on the trade of an electrician you are required to gain particular qualifications or experience which is an indicator of fitness to carry on the occupation, then that law does not apply. It is a bit curious and I think it is something that we need to explore in the Committee stage.

The Hon. R.I. Lucas: Does that mean that South Australian law cannot stipulate a certain TAFE or university qualification?

The Hon. K.T. GRIFFIN: I think that is what it means, and that means, of course, that you have a situation where standards set in this State which we believe are important can be undermined by the mutual recognition principle. The registration must be granted within one month after the notice is lodged and the South Australian registration authority may, within that one month, postpone or refuse to grant the registration but if neither occurs then registration occurs automatically from the date when the notice was lodged.

The grounds for postponement or refusal of the grant of registration are very limited and they relate basically to false statements or the South Australian registration authority deciding that the occupation is not an equivalent occupation—whatever that means. Under the builders

licensing legislation paving trades people and those who do that sort of construction work are, as I understand it, required to register, as are builders, carpenters, joiners and others, and the equivalent provision, as I understand it, relates to the category of work which the licensee is licensed to perform. If it can be argued that work for which the licence has been granted is different from the area of work for which a licence is granted interstate, there is an argument that therefore they are not equivalent occupations and in those circumstances the interstate applicant may be denied registration.

But, the interesting aspect of this is that a refusal to grant registration is reviewable by the Commonwealth Administrative Appeals Tribunal, not by the District Court, although the District Court may be in the chain of the process, but then an appeal lies to the Administrative Appeals Tribunal. It is a quasi-judicial tribunal, not a court. There is, for example, the Medical Board, the Architects Registration Board, and the Legal Practitioners Act where the Supreme Court is the ultimate arbiter: appeals will be entitled to be made by the person or by the South Australian registration authority, although I am not quite sure how that occurs, to the Administrative Appeals Tribunal at the Commonwealth level. I think it is somewhat bizarre that in relation to legal practitioners there may be a right of appeal not to another court but from the Supreme Court to the Commonwealth Administrative Appeals Tribunal.

When a notice is lodged with the South Australian registration authority there is interim registration pending the granting or refusal of registration, and the person who is deemed to be registered may carry on the occupation in South Australia as if that were substantive registration.

It has been put to me that this enables a person intent upon circumventing the South Australian law to do just that. For example, a national building company might want to undertake a job in South Australia with Victorian electricians and it may decide that it wants to play the system. So, the Victorian electrician will give notice of his or her application and will be entitled to practise that trade immediately and for a period of one month. It may be that ultimately they are registered, but there may be some reason why they should not be registered and, in those circumstances, after the period of one month has expired, they move back out of South Australia having done the work that they were contracted to do by the national building company. That may be to a standard that is not satisfactory for South Australian conditions. Conditions may be imposed but only if they are no more onerous than they would have been in similar circumstances for South Australian registrations.

A Minister from each of two or more States may jointly declare by notice in the *Gazette* that specified occupations are equivalent and may specify or describe conditions that will achieve equivalence. That tends to override the right of a registering authority to take an action to argue that there is not equivalence and that this is an Executive Act: it is not an Act of the Parliaments of the State. The State registration authorities are not involved. It is a decision of the Ministers. Neither substantive nor interim registration requires compliance by the interstate person with any statutory or other formalities requiring personal attendance in South Australia. The Governor-General may make regulations amending the schedule to the Commonwealth Act, provided that the designated person in each of the participating jurisdictions has published a notice setting out the terms of the proposed regulations and requesting that they be made and, as I have said earlier, in South Australia the designated person is proposed to be the Governor.

A number of organisations have made comments to the Liberal Party in relation to the Bill. The Riverland Horticultural Council, for example, expresses grave concern at the possible impact of this Bill on the horticultural industries in this State. It says:

> Whilst we recognise that it is the intention of the Bill to sweep away unnecessary regulations governing the sales of products and services, we are not yet convinced of the effectiveness of the checks and balances in the Bill. Whilst the Bill provides for temporary exemption (12 months) for any product or service that can be successfully disadvantaged by the Bill it is proposed that a council of relevant Ministers could then adopt uniform national standards. Take, for example, dried fruits. We have already gained an undertaking from the then Premier (Hon. John Bannon, MP) to seek uniform national standards through the Agricultural Council. However, this begs two considerations being adequately addressed:
>
> (1) that five of the eight relevant Ministers will agree on suitable dried fruit standards.
>
> (2) that a backlog of cases will not accumulate in the first 12 months, such that uniform national standards are not in place upon the expiration of the period of exemption. If so, South Australia will become flooded with low-cost and inferior dried fruit products.
>
> We also wonder why such a piece of radical legislation is being vigorously pursued when—
>
> (1) it obviously drastically reduces the powers of State Governments to regulate the sale of goods and services.
>
> (2) an alternative for harmonisation of standards for food products exists through the National Food Authority.

In a letter which they received from Mr Bannon an undertaking was given. The Landbrokers Society has responded rather quickly to the Bill. It says that it still holds reservations about the scheme of mutual recognition and the way it may operate in practice. The Executive Director (Mr Sidford) writes:

> In particular, I am concerned that only the State Licensing Authority would be allowed to approach the Administrative Appeals Tribunal for a declaration that an occupation was not an equivalent occupation for the purposes of licensing. This would mean that the Land Brokers Society, for example, would not be permitted to make application to the AAT even though it perceived prospective licensees, such as settlement agents in Western Australia, as not being an equivalent occupation. The ability to make application directly to the AAT would be of enormous importance where conveyancers who were allowed to conduct only residential transactions in their own State were applying for licensing as land brokers, who may conduct the full range of conveyancing services in competition with legal conveyancers. I am also concerned that the AAT has replaced the Federal Court as the body which will determine whether an occupation is an equivalent occupation. In general, however, I support the concept of mutual recognition, although I recognise that there may be some practical difficulties with its implementation.

The Real Estate Institute makes some observations about the Bill. It supports the concept of mutual recognition but then goes on to say:

Having said this, however, our concern is that we retain the present standards in South Australia as we move toward achievement of mutual recognition. As you will recognise, South Australia has the highest standard of education, and real estate practitioners are able to prepare contracts. This is a practice which has worked well and has been beneficial to consumers and, as such, must be retained at all costs. Mutual recognition in fact provides the vehicle to introduce this as a feature of the services of real estate practitioners Australia wide, coupled with raised educational standards... The major stumbling blocks in working toward the introduction of mutual recognition appear to be the different Acts in each State/Territory, categories of licence and registration, responsibilities and authorities of practitioners, standards of education qualification prescribed, prohibitions, constraints within legislation covering such things as auctions, contracts, agent/broker relationship.

He makes an observation that the timetable proposed in the discussion paper, which was published prior to the Bill's being developed, appears extremely optimistic, and also makes the observation that:

In so far as South Australia is concerned, the key issue will be the right to prepare contracts and, unless this becomes a right in all other States/Territories, our argument will be that the first registration of people outside South Australia is not in an 'equivalent occupation' and additional study and testing will be required to assess the person's capability.

The Real Estate Institute is proposing to work in a national consultative process to ensure that standards do become more likely uniform. The South Australian Farmers Federation expresses some concern about the mutual recognition proposition. It makes the point that:

...mutual recognition will undermine the national standards setting process of the National Food Authority, forcing the authority into a reactive role as an arbiter of disputes between States over minimum standards. Further, mutual recognition will not allow other States to inspect food product from the State with the lowest standards.

It believes that there need to be some uniform national minimum standards in place in relation to food and other areas such as education and training before the concept of mutual recognition is enshrined in the statutes. The Engineering Employers Association has a very highly critical view of mutual recognition, and I think it is important to read that to the Council. It states:

Some 18 months ago EEA reviewed the discussion papers on mutual recognition of standards and regulations and highlighted the potential for what we termed 'quality dumping'...Our concern arose out of the possibility for imported goods of a standard inferior to that obtaining in South Australia (or any other States) to compete with locally produced goods on the basis of their having entered Australia through a State with less stringent regulations. The ability of the local producer to lower his standard being precluded by regulations within his own jurisdiction would give rise to unfair competition. The rational, commercial solution to this dilemma may well be to close local manufacturing operations and to import comparable product through the appropriate State. The difficulty may extend beyond the competitive aspect to, say, one of regionally specific regulations—e.g. material specifications for compatibility with the unique characteristics of South Australian water could be circumvented by imports entering through a State without the same need for corrosion resistant properties. The difficulty is the absence of any data indicating the extent to which such circumstances might arise and the impossibility of predicting situations which might present problems in the future. As a general comment we have noted an alarming trend in Australia over recent years to pass legislation embracing some large and laudable principle with only scant consideration of its impact on business. This sort of approach almost invariably leads to extensive damage control as the practical implications begin to emerge. I acknowledge the theoretical appeal and potential for greater economic efficiency and uniformity but would point to the extensive range of unintended consequences arising out of the latest sales tax legislation in support of my contention that the single minded pursuit of uniformity does not necessarily produce a net benefit. In the case of this particular Bill it will only work if the standards for goods in each of the States are already reasonably uniform. Any disparity of substance will almost certainly be exploited by other countries seeking to establish a lowest common denominator in Australia. Since we do not know the nature and extent of the potential injury for local manufacturers—

The Hon. C.J. Sumner: How could it be exploited by other countries?

The Hon. K.T. GRIFFIN: By the importation or export from those countries.

The Hon. C.J. Sumner: Importation is dealt with by the Commonwealth Government.

The Hon. K.T. GRIFFIN: That is right, but they are talking about the whole scheme of mutual recognition.

The Hon. C.J. Sumner interjecting:

The Hon. K.T. GRIFFIN: It does. I will give you an example with dried fruits. You can import dried fruits through Queensland where the quarantine restrictions are not as stringent as in South Australia and the standards are very much lower than those in South Australia. Once they are accepted into Queensland, they can then be available throughout Australia.

The Hon. C.J. Sumner: The Commonwealth would stop that.

The Hon. K.T. GRIFFIN: The Commonwealth has not indicated that it will stop that, and the concern about the mutual recognition scheme is that there are so many of these things that have not been explored and, in any event, the legislation is very restrictive as to what Governments can do to stop this sort of thing occurring. In South Australia there is a much higher standard for dried fruits. It is the same standard in New South Wales, Victoria and South Australia, as I understand it, but the problem is that the importation through Queensland or Tasmania of very low quality puts the local manufacturers at a disadvantage, unless the standards are lowered in South Australia and unless there is adequate quarantine protection. I will deal with the quarantine issue in a moment. The same applies to goods. I have a letter from the Premier which addresses one aspect of that, in direct response to the issue that the Engineering Employers Association has raised.

The Hon. C.J. Sumner: It is Greiner's initiative.

The Hon. K.T. GRIFFIN: It does not matter if it is Greiner's initiative or whose initiative it is. The way it is being implemented is not particularly acceptable to many States.

The Hon. C.J. Sumner: They are living in the dark ages.

The Hon. K.T. GRIFFIN: They are not living in the dark ages. The letter of the Engineering Employers Association continues:

Since we do not know the nature and extent of the potential injury for local manufacturers, it is difficult to suggest how it might be redressed. Certainly the schedule of permanent exemptions in the Commonwealth Act contemplates a situation where 'it is reasonably likely that the introduction would have a long term and substantially detrimental effect on the whole or any part of the State'. The grounds for such an exemption, however, seem too general to have any specific value, and the State Bill provides no mechanism for it to be invoked. In any case, the practical reality is that, like dumping, the local producer would be extensively injured, sometimes fatally, before the source of injury is redressed.

It is recognised that the Bill deals with point of sale regulation and that a State could invoke regulations for use, to address particular problems as they arise. This, however, would be damage control based on an administrative inefficiency which might well offset any gains desired from uniformity.

I would therefore suggest that, in respect of goods, there needs to be some quantified benefit in the acceptance of unity, or some quantified disbenefit which would need us not to participate in the proposed arrangements. At this stage I am concerned that there appears to be more bandwagon appeal than any real evidence of gain.

A more analytical approach to this particular piece of legislation would therefore appear warranted.

I did mention that there is a letter from the Premier about one of the issues that was raised in the House of Assembly arising from the Engineering Employers Association issue. That was the standard for products in the plumbing industry to meet the problems with South Australia's corrosive water supply. What the Premier says in his letter to Mr Baker, the member for Mitcham, in relation to that is as follows:

In relation to goods you have already acknowledged the unique qualities of South Australia's water supply which requires particular attention to be paid to the nature of plumbing fittings connected to it. For this reason, many of the standards imposed on plumbing goods by South Australia exceed those required by other jurisdictions. One example is the requirement for dezincification resistant brassware, a requirement instituted to prevent the rapid corrosion of brassware caused by the relatively high chlorine residual in the water supply. At present, this and other requirements relating to the type of fittings able to be connected to the water supply are regulated through point of sale regulations.

With the introduction of mutual recognition principles, these regulations on the sale of such goods will be able to be circumvented by plumbing goods from other States or those imported through other States while our local manufacturers will still be required to meet the local standards for these goods. This is clearly not the outcome which we seek to achieve.

So, the Premier acknowledges there is a problem. The letter further states:

Changes to the regulations are being drafted in order to overcome this anomaly for the plumbing industry, to make the requirements applicable to all plumbing goods whether locally manufactured or imported. This will be achieved through applying conditions of use regulations, an approach available through and consistent with the mutual recognition principles. The position in relation to the plumbing occupation highlights how the decision by heads of Government to implement mutual recognition principles has expedited work towards national uniformity.

I must say that I have difficulty reading that into what he has been suggesting. The letter goes on:

While there is already a degree of mutual recognition in this industry, a study has been undertaken to determine the extent to which uniformity exists in relation to the educations, experience and registration requirements for plumbers, gas fitters and drainers, and to identify what the registration requirements should be on a national basis to ensure national consistency.

That is a good move: I applaud that. But I would suggest that that is something that was not necessarily prompted by mutual recognition. The concern about the impact of mutual recognition in relation to those plumbing fittings to which the Premier referred is that, on the one hand, they take regulations off and, on the other hand, they put them back on. That seems to me to be just a duplication and unnecessary effort in bureaucratically getting around the problem which the mutual recognition scheme created. In relation to the review of experience and registration requirements for plumbers, gas fitters and drainers, the Premier says:

While this work has the in principle support of South Australia's licensing boards, some of the proposals are contrary to both existing and proposed licensing requirements in South Australia, and as such are not supported. These are proposals to impose regulatory controls on activities which are not currently regulated in South Australia; restrict certain work, which can currently be carried out by householders (such as changing tap washers, changing in-line water filters) to registered/licensed plumbers only.

Heaven forbid if we get down to that level. The letter goes on:

Increase the cost of housing, in particular in relation to the construction of stormwater drains and the extension of cold water installations in this State.

These are not acceptable outcomes of uniformity for South Australians, and could be construed as an attempt by the industry to 'capture' an unregulated sector of the activity, making it the exclusive preserve of the plumbing industry at the expense of the public of South Australia.

My Government will be vigorously opposing the adoption of national standards which encompass these aspects. The other undertaking I made to obtain details in regard to progress towards national standards for the dried fruits industry, and the ability of South Australia to maintain quarantined checks at State borders are being followed up through my colleague, the Minister of Agriculture. A report on these matters will be provided when the Bill is debated in the Legislative Council.

I would ask to have a copy of that report before we deal with the Committee stage of the Bill. Isn't it interesting, Mr President, that on the one hand the Government is supporting the principle, and on the other hand it is preparing regulations to take South Australia out of what are proposed uniform standards. I support what the Premier is doing in relation to removing from the standard the requirement for the changing of tap washers and changing in-line water filters to be undertaken by licensed plumbers. It is nonsense if that were to be required to be undertaken by a licensed plumber.

We have seen with building regulations, with the uniform building code, that there are concerns being

expressed by the building industry that the standards which are being imposed on South Australia by national standards are increasing the cost of housing. The problem is that inadequate work has been done to identify all of the areas where there will be these sorts of problems. In some instances we will have higher standards, and my colleague the Hon. Robert Lucas will deal with this. Where we have higher standards and have seen the need for those higher standards then it is important that we certainly assess the standards but do not lower the standards, because in some other State they have not addressed the issue. It may be that with nursing, for example, where there are now much higher standards in South Australia than there are in some other States, that interstate registered nurses will not be able to be registered in South Australia because their occupation is not equivalent. So be it.

Another example is landbrokers who are moving to a three-year degree course. There are a whole range of professions and trades where the standards in South Australia might be higher or where we do not in fact seek to regulate particular occupations. In some instances occupational licensing is merely a recipe for restrictive trade practices where there is no necessity for an occupation to be licensed or to be subject to a Government regulatory regime. I think we ought to be moving towards getting rid of some of that regulation, but where there is a necessity to maintain standards then I think it is appropriate that South Australia have the capacity to achieve that objective. At the moment under this Bill there is a very limited opportunity to achieve that goal.

The letter from the Premier sets up the merry-go-round. It says, 'We support the principle of mutual recognition, we will be part of this legislation, but when we have a few problems with it we will seek bureaucratic and regulatory ways by which we can overcome the problem.' That is not good enough. The way in which one can overcome many of these problems is by undertaking a concerted attack on identifying the differences and determining whether or not they are necessary.

Other organisations have contacted the Liberal Party. The Royal Institute of Architects and the accounting profession have no difficulty with the Bill, because their standards are now essentially uniform across Australia, and the same situation applies to the medical profession. The Law Society has made significant strides in conjunction with its counterpart organisations in other States and Territories to resolve issues of admission from one State to another without the need for this Bill. The Law Society is particularly opposed to the involvement of the Administrative Appeals Tribunal which, as I indicated earlier, so far as legal practitioners are concerned, will exercise authority over the Supreme Court in relation to the admission of legal practitioners. Such a proposal is quite objectionable.

There may be a problem also for legal practitioners because if an interstate practitioner is under threat of being struck off in his or her own jurisdiction or if an auditor is checking on his or her records, the practitioner can cross the border, set up office under the scheme, give notice and then be entitled to registration, except in very limited circumstances. The Housing Industry Association has no difficulty with mutual recognition of single trade skills but sees difficulty with multi-skilling where it is recognised in one State to a different standard and extent from that in another State. The Apple and Pear Growers Association has a concern about produce being admitted into another State with lower standards than South Australia, and such produce being readily available in South Australia.

I have already mentioned in discussion across the Chamber with the Attorney-General that there is a concern about dried fruits. Again, this concern is expressed by the Riverland Horticultural Council, which says that it would be possible for dried tree fruits to be imported through either Queensland or Tasmania where they will be repacked without any quality standards being applicable, and from there the goods could be freely sold across Australia, including South Australia which has the highest standard of tree fruits and where 90 per cent of Australian dried tree fruit production and packing occurs. At present, this sort of produce from overseas cannot be sold in Australian States other than in Queensland or Tasmania.

In summary, serious concerns are being expressed about the whole scheme of mutual recognition and the way it has been put together. It may well have been the brainchild of former Premier Greiner, but I am sure that its implementation is not his work, and it is in its implementation that I think problems have arisen. The implementation framework has not been properly thought out by practical people concerned to maintain proper and reasonable standards both for occupations and goods. Some work has been undertaken, as I have indicated, on the prejudice to South Australia and South Australian business and consumers caused by a lowering of standards, but I suggest that the full consequences of the legislation have not been explored in respect of a comprehensive range of products and occupations. There should be a focus on the advantages and disadvantages for South Australia rather than worrying about what might or might not happen interstate.

I indicated earlier that we will support the second reading of the Bill, but we will seek a number of amendments. We will seek to remove the reference of power to the Commonwealth, but we are prepared to adopt the Commonwealth legislation so that the South Australian Parliament retains its control over the issue. I will seek to remove the authority of the Administrative Appeals Tribunal. We want to provide that approval of any amendment to the Commonwealth legislation may be made only by the State Parliament. I know that the Premier has said in another place that this may mean minor amendments having to be made, but it may also mean major amendments, and we are not prepared to trust that responsibility to the Executive arm of Government where it has a direct impact upon South Australia.

We want to seek to ensure that registration occurs in relation to occupations from the expiration of one month after notice of application has been made and not from the date upon which notice of the application is given. We want to give power to the Government of South Australia to extend an exemption in relation to goods beyond the 12-month period provided in the Bill, and we want to allow the South Australian Supreme Court to be

the ultimate arbiter of whether or not an interstate occupation for which an applicant seeks to be registered in South Australia is an equivalent occupation.

There are a number of other issues with which we can deal in Committee. There is the question of legislation which is exempted from the application of the Commonwealth law. There is the problem of standards and the difference in standards between the States in particular occupations and goods. There is the question of quarantine legislation. The exemption in the schedule to the Commonwealth Act is, in my view, very narrow and may well put South Australia ultimately at risk of some major outbreak of disease or pest activity, and that will have a distinct disadvantage for South Australia's agricultural and horticultural industries upon which so much of South Australia's economy and our future depends.

In looking at this Bill, we are concerned that South Australia has not been put first, that the former Premier in entering into the agreement preferred to take a national view which will act to the detriment of South Australia. In the context of the consideration of this Bill, the Liberal Party prefers to put South Australia first. I indicate support for the second reading.

The Hon. R.I. LUCAS (Leader of the Opposition): I congratulate the Hon. Trevor Griffin on his concise analysis of the Bill. On the surface of it, most people would probably argue that the notion of mutual recognition between the States and the Commonwealth sounds great and simple and say, 'Why don't the Parliaments of Australia get on with it and allow such a simple idea to come to fruition?' However, a closer look at the legislation reveals that we have before us a potential minefield in many areas.

As I indicated at the outset, I congratulate the Hon. Trevor Griffin on at least highlighting some of the potential problems that exist within the legislation. As I said, most people would agree that the notion of trying to ensure cooperative arrangements between the States in relation to goods and recognition of occupations is a laudable objective. It may well be possible to come to some workable arrangement between the States which does not leave South Australia in a weakened position in relation to the accepting of goods from other States or the accepting of persons from other States to practise in occupations in South Australia.

That relates to persons or goods that might be of inferior quality than exists here in South Australia. The other point in relation to complex legislation like this is that I am sure we are finding already—and I am sure that we will find over the coming weeks and months—that there are many, many groups and individuals who will be affected by the legislation who, at the moment, are blissfully ignorant of the potential effect of the legislation on them, on their occupations or on their industries.

I concede that there has been an attempt at consultation throughout Australia in relation to the legislation, but it is just a simple fact of life that it is impossible in any short to medium period of time for legislation like this to be adequately considered by all individuals and groups affected. Of course, it is not until groups have actually had the legislation raised with them at a personal level—by telephone or letter—that some groups start thinking about how the legislation will affect the way they operate or the way their industry or occupation operates here in South Australia.

I want to address the potential effects of the legislation on the occupation of teaching here in South Australia. It is fair to say that the discussions that I have had only in the past two or three weeks, when I became aware of the potential effect of the legislation in the teaching area in South Australia, show that virtually all of the groups that I consulted have not addressed the issue of this legislation and how it might or might not affect the occupation of teaching. Therefore, it has been almost impossible to get a feel from the teaching arena as to whether or not this aspect of the legislation ought to be supported or not.

I have still not had a response from the South Australian Institute of Teachers, which is obviously an important interest group in this area, about its attitude to the legislation. I have received three responses from the Teachers Registration Board, the South Australian Independent Schools Board and the Association of Non-Government Education Employees, which in effect is the non-Government teachers' union. I will place on record their initial responses to the legislation. It is fair to say with all of them, and with other individuals with whom I have spoken, that it is basically a question of their wanting to know from me how the legislation will affect them. They agree with the goal but, nevertheless, they believe that there may be potential problems that have not yet been considered by interest groups in the education arena and they are looking to the Parliament to provide some lead on this matter.

In my second reading contribution I would like to place on the record some of the views, questions and concerns of some of these groups. I want to raise one or two other questions of my own, as a non-lawyer trying to understand some of the provisions of both the Commonwealth Mutual Recognition Act and the Mutual Recognition (South Australia) Bill. The most comprehensive response I received was from Ms Kerin, Chairperson of the Teachers Registration Board in South Australia. I want to place on the record much of that submission to the. The letter addressed to me was dated 6 April. I had correspondence with the board about what its attitude was to the Bill, and its letter is as follows:

Dear Sir,

Thank you for the opportunity to make submissions on the above Bill. The board has of course been involved in discussions for some time concerning this Bill and how it affects teacher registration in this State. The board is supportive of the principles behind mutual recognition and the portability of teacher registration between the States. It is in fact a goal that has already been achieved with respect to Queensland, as we have a mutual recognition agreement with their Board of Teacher Registration.

We also have reciprocity agreements with the boards established in Tasmania and Victoria and with the Classifiers' Committee or its now equivalent with the Department of Education in New South Wales. The board's attempts to achieve full mutual recognition with other States have been impeded by the fact that the only similar statutory board is that in Queensland. The Tasmanian and Victorian boards are established by statute but either do not have the fit and proper clause, concerning entry to the register, do not have any function other

than an assessment of qualifications, or represent only one sector of education.

Further on the submission states:

The South Australian board and Queensland board have a number of things in common. They each have a licensing function in the assessing of qualifications and fitness and propriety to teach. They have a disciplinary function in maintaining standards of behaviour for teachers and they have a liaison function with the tertiary sector and employers in keeping abreast of matters such as content of teacher training courses, changes in curriculum, supply and demand of teachers, etc.

Further on the board states:

However, having said that the board is supportive of the principles behind mutual recognition, the terms of the Bill in question have implications for the existence of teacher regulation throughout Australia. You are no doubt aware that the mutual recognition legislation is to apply only to fully registered occupations.

I interpose and say that in the quick look that I have had through the Mutual Recognition Act—and my colleague the Hon. Mr Griffin might be able to help me—I was unable to find that reference in the Commonwealth legislation to which the board has just referred, that is, the board says that the mutual recognition legislation is to apply only to fully registered occupations.

The Hon. K.T. Griffin: If they are partially registered it applies. If you have a registration requirement in South Australia for a particular occupation and you have got nothing in another State, then people from interstate practising in that area cannot come and be registered here. It is just a matter of partial registration.

The Hon. R.I. LUCAS: I thank the Hon. Mr Griffin for that. Certainly, in the submissions that I have had there is confusion among education groups about the potential application of the legislation to the teaching occupation because of the differing approaches throughout the States to the concept of teacher registration. I continue with the quote from the submission:

Teaching is not, of course, a fully registered occupation in the sense that not every State has a statutorily established board. It is, however, fair to add that entry to teaching is regulated in every State by some method, whether employer based or by independent board only the means of entry and requirements of same do differ. Opinion varies of course about the most appropriate method of regulating entry to teaching, maintaining standards, etc. Under the terms of agreement on mutual recognition a VEETAL working group was given the task of recommending to the Ministerial Council of Vocation, Employment and Education Training Ministers (MOVEET) that where an occupation was only partially registered throughout Australia deregistration should follow unless its retention could be justified on the basis of certain criteria relating to public health and safety.

This board and other similar organisations made detailed submissions to VEETAL as to why in teaching regulation ought to be maintained. The closing date for the submissions was December 1992 and VEETAL was due to respond to MOVEET in March 1993.

There is then a long explanation why the board believes there is an argument for retention of regulation. At this stage I do not intend to go into that debate. I may explore that later in Committee. The submission further states:

Once the VEETAL group makes a recommendation to MOVEET the State Ministers will in due course have to consider the future of their respective State boards.

The board has been given to understand that VEETAL will be recommending to MOVEET that in so far as teaching is concerned the issue of partial/full regulation be put on hold until 1 January 1994. It is hoped that in the meantime in particular the outcome regarding the National Teaching Council may have been determined.

The board believes it would be appropriate at this time to seek exemption for the teaching profession from the Mutual Recognition Act whilst the above matters are given consideration.

Therein lies the nub of the Teachers Registration Board submission to me, and it has sent a copy of that to the Minister of Education and the Hon. Michael Elliott, who I do not think is handling the Bill for the Democrats, is he?

The Hon. I. Gilfillan: He certainly has an interest in education. The teachers have approached him and that is what I will speak about in a minute.

The Hon. R.I. LUCAS: A copy of this submission has now been sent to the Hon. Mr Elliott and I will be interested to see what particular view he intends to express as a result of having received the submission. As I said, the nub of the Teachers Registration Board submission is that, yes, it supports mutual recognition, but it then says, 'However, whilst we support the principles, the terms of the Bill in question have implications for the existence of teacher regulation throughout Australia.' Then it indicates that there is much movement at the station, if I can call it that, at the ministerial council level, and that it believes therefore that there ought to be an exemption for the teaching profession from this Act whilst all this discussion goes on at the national level.

Again, I seek a response from the Attorney-General. I am not sure whether it is possible under the provisions of the legislation before us for occupations to be exempted. I seek a response from the Attorney-General to that question, or that submission, I guess, but also in relation to the other questions that have been raised by the Teachers Registration Board in its submission. I also seek from the Attorney-General the advice that he has received from the Minister of Education and others involved in the teaching area as to the attitude of the Minister and the Department of Education in relation to this question on what appears to be the potential for wholesale deregulation of the teaching profession here in South Australia and nationally as well.

The second submission I want to refer to is from the Association of Non-government Education Employees (ANGEE), again in response to a fax and a request for a view that I put to this particular union. The personal note to me on this from Barry Morrison, the Secretary of the association, is as follows:

If the Mutual Recognition Bill leads to deregulation of the teaching profession, and I believe it will, then it is a disaster for school education generally. The occupation of teaching should be excluded from the effect of the Bill, as for health occupations, for example.

Again, the Association of Non-government Education Employees is seeking exemption from the Bill if that is indeed possible. Mr Morrison also attached for me obviously a pull out of a report that he has made, perhaps to his union or some other body. I will quote from part of that submission:

In the meantime, a Bill before the House here in South Australia—the Mutual Recognition Bill—threatens the destruction of the Teachers Registration Board and with it the removal of minimum standards for the teaching profession in this State. The Bill concerns the recognition throughout Australia of regulatory standards for goods and occupations. Where the occupation is regulated—registered in every State and territory—then there will be mutual recognition of regulation. Where the occupation is not widely regulated then the occupation will be deregistered or deregulated.

Full teacher registration boards exist in South Australia, Queensland and the non-government sector of Tasmania. There was a board in Victoria but the new Government as disbanded it. Other States and Territories do not have registration boards. What a grossly backward step it would be for school education generally if there were no teacher registration board and no minimum standards for the employment of teachers.

Again, there is a consistency in the view between the Association of Non-government Education Employees and the Teachers Registration Board as to the potential ramifications of the legislation that we have before us at the moment. I guess it is possible that both of them are wrong. However, certainly the Teachers Registration Board has indicated that it has been considering this matter for some time. Therefore, I think we as members of this Chamber need to give its views serious consideration before we attempt to rush this legislation through the Parliament.

The final submission is from Bob Lean of the Independent Schools Board, and it states:

Thank you for your fax concerning the Mutual Recognition Bill. I understand that it may have no impact on teaching as it is not a fully regulated profession, South Australia and Queensland being the only two States with a comprehensive and representative Teachers Registration Board. Your ideas on this would help ISB consideration. The ability for a school in South Australia to employ an experienced teacher from, say, New South Wales, whose preservice qualifications do not meet the South Australian requirements yet, yet is from all signs an excellent teacher held in high regard by peers, does seem desirable. But at present it is extremely difficult, especially if that teacher comes from a non-government school. If the proposed Act will allow this recognition of teachers there would be from our point of view some considerable benefit, but if not it would seem irrelevant and an opportunity missed. Your views on the possible effect on teaching of this Bill would be helpful.

The view of the Independent Schools Board is slightly different again to that expressed by the Teachers Registration Board and ANGEE. I just give that as an example of the confusion—and the understandable confusion—in the education community as to what the effect of the legislation will be on the teaching occupation. There is the one view that because it is partially regulated it therefore means that total regulation will come in and the disbanding of teachers registration boards throughout the nation. There is the other view that because it is partially regulated therefore the legislation does not apply to teachers or the teaching profession in South Australia and therefore there is no concern with the legislation.

It may be that either one or both of those interpretations of the Bill is correct, or perhaps both are wrong, and I seek advice from the Minister. As I said, I would like to obtain copies of the assessment that the Education Department and the Minister of Education have made of the effect of this Bill on the teaching profession and where the Minister of Education, in particular, and the department see the potential changes in teaching in South Australia if this legislation were to pass in the form before us at the moment.

A number of questions immediately spring to mind when one considers the movement of teachers between the States. It might be possible, and appears to be possible if the legislation was going to apply to teaching generally, that teachers with lower qualifications in other States, perhaps, say, New South Wales, who would not be able to be registered here in South Australia would be able to be accepted to teach here in South Australia. There are two views on that, and I have given one on the record from the Independent Schools Board, which says that with other provisos, if they are generally regarded as good teachers and so on, then may be that would not be a bad thing in relation to the acceptance of teachers here in South Australia. I know also that in relation to teachers who move from South Australia to Victoria that because we recognised some two-year trained teachers back in the early 1970s and registered them, when they move to Victoria they are unable to teach unless they give guarantees of undertaking further training and study in the State of Victoria.

Some of these teachers I know to have been good teachers with fine teaching records. So, I accept that this question of the acceptance of standards between the States in relation to the teaching profession is not a black and white matter, but certainly you would not want to have a situation where teachers with extraordinarily low qualifications might be able to come perhaps from overseas and be recognised in a State or Territory (although I do not know what the standards are in all other States and Territories) and then automatically be able to come to South Australia and take up teaching. Certainly there is a debate going on in education in general in South Australia about the appropriateness of the three year training qualification for teachers. We are increasingly moving towards a four year training for teachers as we try to cram more and more into teacher training in our institutions.

There are arguments that we need to look at things such as the ability to cope with the special education problems of all students, and the ability to cope with gifted and talented students, the ability to identify gifted and talented students. The Hon. Terry Roberts would have a personal interest in this matter, as I understand from a recent appointment near and dear to his family to the Institute of Teachers.

The Hon. T.G. Roberts: Your information chain is pretty good.

The Hon. R.I. LUCAS: My information chain is reasonably reliable from the Institute of Teachers. There are important questions if a State wants to increase the standard of its teachers, and it might not necessarily be a debate about having teachers who cannot teach coming

into your schools; they may be able to teach, but if a State wanted to lift the general standard of its teachers by insisting on certain additional qualifications it would appear at least on the surface that those attempts by any State or Territory would be stymied by this legislation.

One can refer to the Commonwealth Mutual Recognition Act, a matter to which the Hon. Trevor Griffin referred earlier. I want to refer to clauses 17 and 20 of the Bill and, as I said, I, as a non-lawyer, struggle to understand the effect of sections of the Act, and I would seek advice from the Attorney and his advisers, both State and Federal, if he has them, as to what is intended and what the effect of the sections will be on teaching in particular. Section 17 provides:

Entitlement to carry on occupations.

17(1) The mutual recognition principle is that subject to this part a person who is registered in the first State for an occupation is, by this Act, entitled after notifying the local registration authority of the second State for the equivalent occupation:

(a) to be registered in the second State for the equivalent occupation;

and

(b) pending such registration, to carry on the equivalent occupation in the second State.

(2) However, the mutual recognition principle is subject to the exception that it does not affect the operation of laws that regulate the manner of carrying on an occupation in the second State so long as those laws:

(a) apply equally to all persons carrying on or seeking to carry on the occupations under the law of the second State;

and

(b) are not based on the attainment or possession of some qualification or experience relating to fitness to carry on the occupation.

Section 20(4), which relates to the entitlement to registration and continued registration, provides:

Continuance of registration is otherwise subject to the laws of the second State to the extent to which those laws:

(a) apply equally to all persons carrying on, or seeking to carry on, the occupation under the law of the second State;

and

(b) are not based on the attainment or possession of some qualification or experience relating to fitness to carry on the occupation.

Those two sections talk about the entitlement to carry on an occupation in a State and the entitlement to registration and continued registration. Both have what to me is this obscure part of a section that talks about 'not based on the attainment or possession of some qualification or experience relating to fitness to carry on the occupation'. As I said, I struggle to understand exactly what the effect or intention of these two particular provisions are in relation to the teaching profession. I hope it is not saying—

The Hon. I. Gilfillan: You were quoting from clause 20(4), were you?

The Hon. R.I. LUCAS: Section 20(4) and section 17.

The Hon. I. Gilfillan: Well, section 20(4), in my text, is just one sentence. You are doing A's and B's as I recollect.

The Hon. R.I. LUCAS: Yes.

The Hon. I. Gilfillan: In other words, there are two texts circulating.

The Hon. R.I. LUCAS: My colleague the Hon. Trevor Griffin tells me that this comes from the Parliamentary Library. My learned colleague the Hon. Mr Gilfillan raises a very interesting question. I have just quoted from a copy of the Mutual Recognition Act 1992 which was provided by my colleague the Hon. Trevor Griffin and obtained from the Parliamentary Library, with a stamp on it and a photocopy, and I have quoted section 20(4). The Hon. Mr Gilfillan has a copy of the same Act—he obviously gets greater access to the Premier and significant figures within the Government than do the Opposition—but he has a copy of the Act from the Premier with exactly the same section, but section 4 reads as follows, 'Continuation of registration is otherwise subject to the laws of the second State.'

The Hon. T.G. Roberts: You have the Lower House garb.

The Hon. R.I. LUCAS: Maybe we have.

The Hon. K.T. Griffin: That is the Act.

The Hon. R.I. LUCAS: This is the Act.

The Hon. I. Gilfillan: Apparently the Premier is amending the Federal Act on the run.

The Hon. R.I. LUCAS: The Hon. Mr Gilfillan suggests that perhaps the Premier has taken the tippex to his Act and did not like that section and has taken it out. There is obviously a discrepancy which is quite serious in relation to what, in fact, is the legislation that we are meant to be addressing before the House at the moment. Obviously, we cannot resolve that matter here, and it is a matter that the Attorney-General will need to take up.

The section about which I am raising questions does not appear in the Hon. Mr Gilfillan's copy but it certainly appears in the copy that the Parliamentary Library has. I ask the Hon. Mr Gilfillan whether section 17(2) has paragraphs (a) and (b) in his copy as well?

The Hon. I. Gilfillan: Yes.

The Hon. R.I. LUCAS: Well, we are consistent there. I will address both of these sections in the copy of the Act that we have, anyway. As I said, I struggle to understand the intention of those provisions and the effect thereof as they relate to the teaching profession. Do they mean that our laws here in South Australia in relation to teacher registration, if we were to keep them, would not be, or should not be, based on the attainment or possession of some qualification? Do they mean that our laws in relation to registration should not relate to experience relating to fitness to carry on the occupation?

The Hon. K.T. Griffin: Like an apprenticeship, I suppose.

The Hon. R.I. LUCAS: It's not just that. In South Australia you are required to have a teaching qualification to teach in a South Australian school; and you are required to be a fit and proper person to teach in a South Australian school. I presume that a convicted child molester with a teaching qualification would not be registered to teach in a South Australian school.

The Hon. Anne Levy: Mutual recognition is about recognising other States.

The Hon. R.I. LUCAS: I fully understand that, but that sort of glib response does not really answer the question that I have put to the Committee. There might be a very simple explanation to these provisions which, to a non-lawyer like myself or to the non-lawyers in the educational interest groups is not readily apparent. I seek

an explanation from the Attorney-General on the effects on the teaching profession of these two clauses, if they do in fact currently exist in the Bill that we are meant to be considering.

In this area of teacher registration perhaps I will address a question to the Hon. Terry Roberts who, as I said, now has some personal influence in the South Australian Institute of Teachers. I understand that someone near and dear to him has not only a teacher qualification but also a legal qualification, which is utilised by the institute. It is important that the Institute of Teachers address this issue of mutual recognition.

As I said, I have been in contact with both unions. ANGEE has responded, and I would be interested to know from the institute what is its attitude and interpretation of the effect on teaching of the Mutual Recognition Bill. Perhaps the Hon. Terry Roberts has greater influence with the—

The Hon. T.G. Roberts: I can give you the phone number.

The Hon. R.I. LUCAS: I have got the phone number. I have done the ringing. Perhaps the honourable member has greater influence with the institute and may well be able to bring to the Committee for the benefit of members the attitude of the Institute of Teachers or, at least, of an important employee of the Institute of Teachers, regarding the effect on the teaching profession of the Mutual Recognition Bill. Certainly, as one member who looks to having close cooperation with the Institute of Teachers when in Government, I am interested to know what the attitude of the institute is to the legislation. Whilst I did refer to the other submissions, I do not want to indicate that I have personally set in concrete my attitude towards the existence or otherwise of a Teachers Registration Board in South Australia. Certainly, there is much debate about the concept of a board. I believe that we must have some sort of guarantee of minimum standards for our teachers and qualifications in our schools, and it may well be that the best way of achieving that is the Teachers Registration Board. However, there may well also be other mechanisms through which a guarantee of quality of teaching can be achieved, and I would certainly indicate that I have an open mind as to what the process might be.

I certainly share the goal of the board, of the non-government schools union (ANGEE) of the Independent Schools Board and all others in relation to ensuring that we have an appropriate level of standards and qualification for our teachers in Government and non-government schools in South Australia. With those comments, I indicate, as did my colleague, support at this stage for the second reading of the Bill, but I do seek responses from the Attorney and, in particular, from the Minister and the Education Department in relation to the effects of this Bill on the profession of teaching here in South Australia.

The Hon. I. GILFILLAN: I would like to indicate the Democrats' rather hesitant support for the second reading of this Bill and certainly no undertaking to support it in the third reading. It came as somewhat of a surprise to us to discover just how significant and wide-ranging the influence of this legislation could be in South Australia, and I want to pick up some of the points that were covered in the second reading explanation of the Minister introducing the Bill into this place, the Minister of Transport Development (Hon. Barbara Wiese), recognising that this is introduced as a Bill supposedly to assist in microeconomic reform in Australia and to reduce unnecessary hindrance to interstate trade, sale of goods and occupation of certain categories of professions. The second reading explanation states:

> 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.

So, it is clear that the intention was that, where it was considered necessary that uniformity should be essential to national economic efficiency, the heads of Government would be pushing for uniformity—in other words, identical legislation or control by Federal Government legislation right across the nation. But where that was not considered necessary, then this measure is supposed to bring as much into line as possible the various conditions that apply in each State. I believe that it smacks very strongly of centralism. I cannot understand why the heads of Governments of States and, in particular, of smaller States have agreed to this as it is presented to us virtually without a qualm.

The ramifications of this legislation are certainly daunting. I quote some other paragraphs from this second reading explanation and make observations about them on behalf of the Democrats. The Minister stated:

> It is an indication of the commonsense 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.

That may well be so, but the heads of the Governments in various locations do not necessarily speak for all their Parties and supporters and, certainly, not on behalf of the other Parties that are represented in those Parliaments. In fact, in this case I venture to suggest that it is the first time that the Opposition and the Democrats have seriously applied themselves to the matters that are raised in this Bill. The Minister continued:

> 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.

I interpose that that is a very admirable aim. No-one would resent steps being taken to protect the health and safety of citizens or to prevent or minimise environmental pollution. They are causes on which the Democrats spend much energy and have much concern. Here we have an outlining of the two basic simple principles. The second reading explanation states:

> 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.

That is a remarkable statement. It really undermines and erodes the point of individual State legislation to set the standards. The quote continues:

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.

I have never heard such rubbish! What on earth is the point of setting a standard by the people representing the people of a State to protect the product and quality thereof and how it is marketed? What point is there in passing that legislation if we pass this Bill, which will override it? It may well be that the product that is produced in the home State is restricted very neatly to what the Parliament of the State requires of it, and those producers have to go through the extra cost and perhaps the extra bother of presenting their product in that style, only to find that they are undercut or that there is competition in the market with products from other States which do not comply with that, or imported products which have been accepted into a particular State. I think it is a ridiculous measure. If we are shown quite clearly that our interpretation is wrong and we are fearmongering because we do not understand this, we will retract, but as it appears and as it is presented it is a very worrying piece of legislation. I go on to quote:

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.

Therefore, the lowest common denominator will prevail throughout the nation regardless of what legislation we pass in the various States. I cannot believe that my colleagues in the Government whom I know so well, and I am not necessarily referring to the Ministers who may have been locked into some sort of Cabinet solidarity, would not abhor this threat to standards which could be set in our State through this piece of legislation.

The Hon. K.T. Griffin: I suppose it is possible that one of the other States could become very entrepreneurial and actually lower standards so that they can become the point of entry and point of distribution of products of a lower standard.

The Hon. I. GILFILLAN: I certainly acknowledge that interjection, because it does reflect a very real concern that the Democrats have: that a State that may be in some sort of financial crisis, such as South Australia, may suddenly take steps which will enable it to import a product at a lower than the national standard requirement or basic requirement, and by charging some duty as it comes through the State and then moving it on to the national market thereby increasing the State revenue. I think that the Hon. Trevor Griffin is quite accurate in indicating that the legislation, as we understand it, would allow that.

It also does, in our opinion, allow for some quite worrying looseness in the conditions in which people who wish to carry on an occupation in another State to the one in which he or she is registered can do so without necessarily complying with the minimum requirements of that occupation in the other State. So, we could have people coming to exercise the various occupations which require certain degrees of skill in South Australia and determined by this Parliament, and the instruments of this Parliament, which requirements would not be maintained because of the other principle which is, and I quote:

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—

and I underline 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.

I pause again to gasp at this. It really means that it is making it quite pointless that the individual sovereignty of the individual States should bother themselves with setting what they believe to be the appropriate responsible standards. I am amazed that that has apparently not been identified by the Government and by those who have supported this measure. I call on the Attorney or whoever is representing the Government in dealing with this Bill to produce substantial evidence of the positive benefits to South Australia that will flow from it for the Democrats to entertain this measure with any favour at all. It seems to have the downside and the risk, and I am far from persuaded that it is legislation that should, in the ultimate, be supported. I quote again:

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.

This is the punch line:

The States and Territories will effectively cede power to one another through the mechanism of Commonwealth legislation.

The hair on the back of my neck stood up as I read this second reading explanation. I could not believe it. This is quite brazenly indicated as an innovative move for the States and Territories to lie down on their bellies, stick their legs and arms up in the air, and say, 'Come on, Federal Government, take us over.' Some of us might like it, like the Hon. Ron Roberts, that hard-working Whip for the Government.

The Hon. R.R. Roberts: I thought you were going to say something else.

The Hon. I. GILFILLAN: No. I will not be drawn into any banal observations that are not relevant to the Bill. As I see it, this is a very serious threat to the autonomy of South Australia. There are some safeguards, as spelt out, for an amendment. It will require unanimous agreement among all participating jurisdictions, and no doubt one can pick one's way through this and find that there are certain measures which can be seen to be to a minimum degree some form of safeguard.

The Hon. K.T. Griffin: That's an agreement between Governments, not an agreement between Parliaments.

The Hon. I. GILFILLAN: That is right. I was going to come to that point a little later. The interjection is relevant, that it is an agreement by the person

representing the Government. It is the next quote I was going to make. The quote is:

> Amendment of the Commonwealth Act will require approval by a designated person from each jurisdiction—for South Australia, this person is the Governor.

Quite obviously, that is the Government; it does not mean the Parliament. I have not studied the Bill closely enough to know what restraint there is on who can be a designated person from each jurisdiction, and unless I can get that information by way of interjection, it does raise a rather curious question.

The Hon. K.T. Griffin: It is generally the Governor in each State, and the Administrator—

The Hon. I. GILFILLAN: It is not determined in the Act: is that correct?

The Hon. K.T. Griffin: Each State designates its—

The Hon. I. GILFILLAN: So each State has the right to designate the person who is going to be the designated person. This may be explained by the Attorney. As I understand the implementation of the Act itself, each State has its own sole power to choose who will he that person, and it could in some extraordinary circumstances be a senior public servant. I know that sounds far-fetched, but as far as I know there is nothing specific in the Act which determines whom it should be.

The Hon. K.T. Griffin: In the South Australian Bill they are seeking to identify that person as the Governor.

The Hon. I. GILFILLAN: Yes, that is clear also from this explanation. It will be the Governor in South Australia, and I do not have any objection to the Governor being the person, but what I do object to is that if there is to be an amendment to this Act it should only be by passage through this Parliament—not by an arbitrary decision of the Government of the day.

Certain matters are explicitly exempted from mutual recognition. I quote again:

> 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.

There are certain other exemptions. I quote again:

> 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, focusing on those products for which a national market is undesirable. Examples include pornography, firearms and other offensive weapons, gaining machines, and South Australia's container deposit legislation.

I highlight: the heads of Government made this agreement. I think this shows a degree of arrogance in the way in which this legislation has come into being and been promoted. It has not had the widespread discussion, debate and support of the Parliaments in various jurisdictions. There will be more discussion about this Bill, and I do not put forward my second reading speech as being an extensive or definitive contribution. However, I wish to highlight one or two points in the second reading explanation which I find particularly significant. The second reading explanation states that under this mutual recognition principle:

> ...there may 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.

I have not been by nature one who has wanted to lock people into legislative straightjackets so that they would be unfairly caught and almost entrapped through no overt fault of their own, but I think this particular situation leaves the door and window wide open. For example, unscrupulous traders in South Australia could bring in any sort of junk and have any sort of strange labelling from another State whose standards are not so rigorous. I put to the Government that the defence incorporated in this legislation is so wide and so generous that it is virtually an invitation for traders knowingly to offer for sale in South Australia goods that are bogus, and that their labelling only has to give them this superficial defence and this legislation has them in the clear. Finally, the second reading explanation states:

> 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 Territory 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.

I ask the Government to provide the Council with detail that will, first, indicate where these unnecessary costs are occurring and quantify them so that we can have some idea of what it is we are attempting to overcome and what the benefits will be if we do overcome them; and, secondly, to indicate to what extent in the professions or the occupations labour mobility is currently held up because of the situations which apply between the States and which will be improved supposedly in the Government's opinion by the introduction of this measure, so that we can look at the hard evidence and persuade ourselves that this dramatic surrendering of State rights is justified on an economic basis.

I conclude by acknowledging that the Premier has sent me a copy of the Bill and the Federal Act together with an undated letter—which must have been compiled soon after 1 April; in fact, 1 April seems to be an appropriate day on which this Bill was dealt with in this Parliament—and the offer of a briefing, which my colleague the Hon. Mr Elliott and I will take up.

So, in fairness to the legislation and the situation, we will have more to say about it after we have had a briefing. My colleague had an approach from the Teachers Institute which alerted him to its concerns about the consequences of this Bill, and I know he has other concerns that he shares with me. For example—and I do not want to victimise Queensland—it is reasonable to say that Queensland in previous regimes has been suspect in its standards. It could have introduced Brazilian orange juice extract and, having done so, that product would then have been freely marketable right across Australia, including South Australia. That is just one simple example of the sort of unacceptable consequences in our

opinion that could come about through the implementation of the Mutual Recognition Bill as presented in this place.

So, I indicate tentative support for the second reading on the basis that it may be worth while taking the Bill into the Committee stage for more detailed analysis and on the understanding that the Opposition will have some amendments which no doubt would be worth considering. In no way do I give an undertaking on behalf of the Democrats that we will support the third reading unless we have substantially more grounds and we can understand considerably more clearly the advantages to South Australia from the passage of this Bill.

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

The Hon. K.T. GRIFFIN: Mr Acting President, I draw your attention to the state of the Council.

A quorum having been formed:

SUPERANNUATION (VISITING MEDICAL OFFICERS) BILL

Adjourned debate on second reading.

(Continued from 20 April. Page 1937.)

The Hon. L.H. DAVIS: The Opposition supports the second reading of the Bill, which recognises the requirements of the Commonwealth's superannuation guarantee charge legislation. We have had a number of legislative amendments that have recognised the requirements of that Commonwealth legislation. At the moment visiting medical officers have an arrangement whereby 10 per cent of their salary is regarded as superannuation, but three quarters of the visiting medical officers take that superannuation component in cash, rather than putting it into a scheme. In other words, just about a quarter of the visiting medical officers are members of the VMO Superannuation Scheme, which was established by SASMOA a decade ago. This Bill merely recognises the requirements of the Commonwealth superannuation guarantee. It requires visiting medical officers to become part of the superannuation fund and that 10 per cent loading, which most of them have taken in the past in the form of cash, must now be directed to the superannuation scheme which exists for them, the VMO Superannuation Scheme or, alternatively, it can be directed to the South Australian Superannuation Fund.

That is the essence of the Bill, which meets with Liberal Party endorsement. I understand that the South Australian Salaried Medical Officers Association supports the scheme and that the Bill is the result of negotiations between SASMOA and the South Australian Health Commission and Treasury.

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

ELECTRICITY TRUST OF SOUTH AUSTRALIA (SUPERANNUATION) AMENDMENT BILL

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

ADJOURNMENT

At 11.12 p.m. the Council adjourned until Thursday 22 April at 11 a.m.