LEGISLATIVE COUNCIL

Wednesday 5 May 1993

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

PETITIONS

The PRESIDENT: Following a problem that occurred yesterday, when the Hon. Mr Elliott left with the Clerk a petition for presentation in the Legislative Council which the Clerk could not certify as being in conformity with the Standing Orders, I feel it appropriate that members be made aware of some of the problems with petitions. The majority of those petitions were addressed to the Speaker and members of the House of Assembly and, therefore, could not be tabled in the Upper House. Many of the petitions also omitted to reflect the composition of the person signing, for example, citizens of South Australia. Other signatories who were from overseas and other Australian States in some cases signed as citizens of South Australia.

Some of the sheets were from, for example, persons from a particular union, and that requires verification by the Clerk's office as to their membership. Some years ago in the Legislative Council a petition was presented from ratepayers of a particular council area, and a point of order was taken that certain of the signatories were known to be non-residents of the council area. Other signatures were not even on the sheet on which the petition was inscribed but merely on a separate piece of paper. Further, other signatures were on sheets of paper bearing the Australian Democrats logo. The prayer was not in the form prescribed by Standing Orders and merely called on the Government of South Australia, not the Legislative Council, to undertake their request.

In accordance with the agreement reached at the Standing Orders Committee meeting, it was resolved that petitions be presented on Thursdays in the Legislative Council and be given to the Clerk's office in sufficient time for their verification and the counting of signatories. In future, I would advise all members to ensure that the correct petition forms are obtained from the Clerk's office, as this will alleviate all the problems that occurred yesterday.

The Hon. M.J. ELLIOTT: I seek leave to make a personal explanation.

Leave granted.

The Hon. M.J. ELLIOTT: It is not my intention to canvass everything which you, Sir, covered in your statement because it would take a considerable amount of time. However, I want to put it clearly on the record that those petitions which I presented to the Clerk were one section of the petitions which were not addressed to the House of Assembly: they were addressed to the Legislative Council only. I had other petitions which came from people interstate. I did not table those, either. I take great offence. The petitions which I put forward to be presented to this Council did not fit into any of the categories to which you, Sir, referred. I will not cover the other matters now, but I believe that your explanation was unfair.

The PRESIDENT: I do not want to enter into an argument at this stage, but the honourable member is wrong in relation to some of the cases to which he has referred.

LEGISLATIVE REVIEW COMMITTEE

The Hon. M.S. FELEPPA: I bring up the committee's seventh report 1993.

ENVIRONMENT, RESOURCES AND DEVELOPMENT COMMITTEE

The Hon. T.G. ROBERTS: I bring up the committee's fourth report on the Mount Lofty Ranges Amendment Plan.

GOVERNMENT, MACHINERY

The Hon. C.J. SUMNER (Attorney-General): I seek leave to make a ministerial statement on the subject of machinery of Government.

Leave granted.

The Hon. C.J. SUMNER: On 26 November 1992, I made a ministerial statement on the subject of machinery of Government. I indicated that I would make a further statement on these and related topics in this session of Parliament and I now take the opportunity to do so.

The Government has initiated a series of measures which are designed to ensure the highest standards of integrity and accountability in the conduct of public and elected officials in this State.

Public Corporations Act: this Act deals with the responsibilities and accountabilities of directors in public trading enterprises and their relationship to Government.

Whistleblowers Act: this Act, which has also been passed, provides for the statutory protection, from civil and criminal liability, of persons who disclose public interest information in the public interest. This Act also provides a remedy, via the mechanisms of the Equal Opportunity Act, against victimisation in employment. The South Australian Parliament is the first in Australia to pass a comprehensive Act of this nature.

Members of Parliament (Register of Interests) Bill: this Bill, when passed, significantly tightens up the situations in which members are required to disclose financial connections which could render a member susceptible to potential conflicts of interest. In particular, it requires members who are involved in family companies and trusts to make the same sort of disclosures about the family companies and trusts as are required of members themselves.

Disclosure of Electoral Expenditure: draft amendments to the Electoral Act which provide for the disclosure of donations and electoral expenditure by candidates, Legislative Council groups and other persons taking part in State election campaigns in South Australia have been distributed to all political Parties for their comments. I foreshadow that legislation on this matter will be introduced in the budget session of Parliament.

Public Sector Standards of Conduct: the Code of Conduct for Public Employees, which I launched in October 1992, has now been distributed to every public sector employee accompanied by agency awareness sessions. In addition, the Public Sector Fraud Coordinating Committee has been undertaking ethics and fraud education and awareness sessions for middle level and senior managers throughout the public sector.

Code of Conduct for Members: as I indicated in my November ministerial statement, a draft code is in the process of being developed and will be tabled in the budget session of Parliament. As it will be a matter for Parliament to consider, it could be addressed through the Standing Orders Committee or another committee of Parliament.

Ministerial Advisers: as foreshadowed, all ministerial advisers are now required to provide a declaration in the same terms as is required of members pursuant to the Members of Parliament (Register of Interests) Act. This provision is now included as part of the ministerial advisers contract arrangements.

Parliamentary Committee System and Freedom of Information Act: both these measures enhance the accountability of public officials.

I now turn to the Cabinet Handbook. As previously foreshadowed in my earlier statement, the Cabinet has now adopted a Cabinet handbook. This handbook, which will be formally operational as of 1 July 1993, comprehensively prescribes all procedures, practices and conventions under which the Cabinet of South Australia should operate. I seek leave to table the Cabinet handbook.

Leave granted.

The Hon. C.J. SUMNER: The handbook is designed to implement the following principles:

- Cabinet is responsible for the development and co-ordination of the policies of the Government;
- the convention of the collective responsibility of Ministers for Government decisions requires collective adherence to all Government decisions made in Cabinet; Cabinet decisions reflect collective deliberation and are binding on Cabinet Ministers as Government policy;
- the deliberations of Cabinet and Cabinet Committees are to be conducted in a secure and confidential environment;
- the Cabinet process will allow for considered and detailed examination of specific matters before Cabinet;
- the processes of Cabinet are established by the Premier to ensure that all Ministers are bound by the same rules and by high standards of probity; and
- Cabinet collectively and Ministers individually are responsible and accountable to the Crown, the Parliament, and ultimately the electorate.

Most important, the handbook contains a detailed section on Ministers and their duties. This section deals with conflicts of interest, disclosure of facts and declarations in relation to pecuniary and non-pecuniary benefits. As mentioned in a previous ministerial statement, it became clear during the Worthington inquiry that there was a need for considerable elaboration of guidelines for Ministers because of the wide variety of circumstances which have the potential to produce a conflict of interest or the appearance of a conflict of interest and the increasing importance attaching to this issue in government and other spheres compared with some years ago.

It is recognised that Ministers have a duty to act in accordance with the law, and to act independently, honestly and in the utmost good faith in the interests of the State as a whole. These duties are discharged in a political context and, in deciding whether there is a conflict between the Minister's duty and his or her interests, that context must be considered. The Cabinet handbook sets out in some detail those circumstances giving rise to conflict situations for Ministers in relation to pecuniary and non-pecuniary interests. In addition it discusses in detail the procedures to be adopted when conflicts arise.

A conflict will arise whenever a reasonable person, who knows what the Minister knows, would believe there is a substantial and unjustifiable risk of conflict between the public duties of the Minister and the Minister's personal interests. A Minister is taken to know the facts which the Minister would have found out had he or she made such further inquiry as the facts in his or her possession clearly required.

When conflicts do arise, the Minister and the Premier and/or Cabinet need/s to consider the steps to be taken to resolve the issue. It is clear the Minister must make a full declaration before any consideration can be given to the appropriate steps to be taken. Once that declaration is made, then the Premier/Cabinet can decide whether to allow the Minister to continue in spite of the conflict or whether to require him or her not to participate in a discussions or to divest themselves of the private interest. The handbook also sets out the actions that the Premier and/or Cabinet may take if a declaration is not made.

In order to assist Ministers to recognise conflicts as they arise, improvements have been made to the system of maintaining a central register. This register will now contain all of the details of Ministers' private interests disclosed to Parliament pursuant to the Members of Parliament (Register of Interests) Act 1983. In addition Ministers must disclose any private interest thought likely to conflict with their duty as a Minister. Copies of this central register will be circulated to all Cabinet Ministers to ensure that Ministers are on notice in relation to potential conflicts for themselves and their colleagues. Ministers are also responsible for declaring any conflict to Cabinet.

In addition Cabinet has adopted rules relating to pecuniary and non-pecuniary interests as a further means of preventing conflicts from arising, or recognising them more readily when they do arise. These rules deal with the following topics:

(1) Directorships: Ministers must resign directorships in public and certain private companies.

(2) Shares: Ministers must divest themselves of all shares and similar interests in any company of business involved in the area of their portfolio responsibilities where those shares or interests could reasonably be expected to conflict with a Minister's portfolio responsibilities.

(3) Partnerships: Ministers should not engage in professional practice or in the daily work of any business.

(4) Confidential Information: Ministers should not use information gained in the course of their official duties to gain an improper financial advantage for themselves or others.

(5) Gifts and Sponsored Travel: Ministers must comply with the provisions of Cabinet Circular No. 3 and the Members of Parliament (Register of Interests) Act in relation to gifts and sponsored travel.

(6) Family Members/Friends: Ministers should exercise care before agreeing to make any recommendations or decisions affecting the rights, entitlements, livelihood, prospects or employment of a relative, family member or close personal friend. When the Minister does make a recommendation or decision in these circumstances, the facts surrounding the recommendations, the decision and the relationship in question should be fully disclosed to the Premier, and if necessary in the view of the Premier should be disclosed to Cabinet.

Ministers should exercise care when interceding with Government agencies, statutory authorities or private bodies which have any involvement with the Government (over and above that which all persons have as a matter of course) on behalf of relatives, family members, or close personal friends.

Ministers should also exercise care in providing references for persons.

I am of the view that these procedures will minimise the possibility of conflict of interests situations arising and where these situations do arise, the guidelines assist greatly in ensuring that the appropriate steps are taken. As I previously advised the Council, the Cabinet handbook has been based on existing South Australian procedures and guidelines, but it also includes the best elements of the Commonwealth, Queensland and Victorian Governments and the Western Australia Royal Commission into Commercial Activities of Government. In summary, the new handbook outlines in clear terms the principles on which Cabinet is to operate.

In conclusion, in recent times the Government has introduced many administrative and legislative reforms designed to maintain the integrity of the democratic institutions of our State, of the machinery of Government and of public sector administration.

These have been summarised in this ministerial statement and that which I gave yesterday on public sector reform which dealt with (among other things) upgraded procedures to ensure the maximum accountability of Government institutions to Ministers and thereby to Parliament.

In addition, the Government has pursued an active anti-corruption strategy which has included the establishment of an Anti-Corruption Branch in the South Australian Police Department, a Public Offences Act which has modernised legislation dealing with public corruption, and an anti-fraud strategy overseen by the Public Sector Fraud Coordinating Committee coupled with the many other measures outlined in this statement.

Collectively, these initiatives have the effect of placing South Australia at the forefront of setting the highest standards of conduct required of those employed in the public sector and of our elected officials. It demonstrates the Government's commitment to ensuring integrity in our public institutions and their processes.

QUESTION TIME

ANANGU SCHOOLS

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

Leave granted.

The Hon. R.I. LUCAS: In September last year I made application under the Freedom of Information Act to gain access to reports compiled by the Education Department's Education Review Unit on six Aboriginal schools in the Pitjantjatjara lands, in Far North South Australia. The ERU conducted the reviews in May 1991 and had completed the reports by the end of 1991. Several attempts during 1992 to obtain a viewing, or copies of the reports, were denied by the department, advising that the reports were with the Aboriginal communities for their perusal before being authorised for public release.

Although my FOI requests were initially refused, I have now been provided with copies of the six reports. They are not pleasant reading. Repeatedly they refer to petrol sniffing, the vandalism and graffiti evident in the schools, truancy or limited attendance at school by students, inadequate classrooms for students and inadequate accommodation for teaching staff which, in turn, leads to a high turnover of staff at some of the isolated schools. For example, page 11 of the ERU review of the Fregon schools states in part:

> Mention has been made of the dilapidated state of the grounds and buildings. The high level of morale enjoyed by the staff is a credit to them given the appalling conditions in which they are expected to work. In some parts of the school, the health and safety of the children and staff are in question.

Further on in that report it gives a stark illustration of the classroom conditions staff and students have to endure. It states:

> Technical studies and art are taught in an unlined galvanised iron shed. The secondary classes are cramped into single spaces forcing two or three teachers to attempt to work in the one classroom area simultaneously.

As to substance abuse, the ERU makes this comment in its report on the Indulkana school:

> Staff and community members spoke to the review team members about their concern and current inability to solve the problems of petrol sniffing. The youths engaged in this form of substance abuse use the school grounds after hours and leave debris when they depart. The attendance record of these students is poor and when they do attend their concentration is very limited.

While I have referred to two schools I would not want to stigmatise the communities there because there is a consistency in the problems across the six schools covered by six separate reports. While the communities in these six areas and the departmental staff are doing their very best to address some of these issues there is clearly an attitude prevailing of 'out of sight, out of mind'. Moreover, many staff commented to members of

the ERU about the long lead time they experience from the department in getting any action to address these problems. My questions to the Minister are:

1. What has been the Minister's response to the contents of the six Anangu ERU reviews and the recurrent problems outlined of petrol sniffing, poor accommodation for students and staff, truancy and limited attendance in the class and vandalism and graffiti on school property, and what specific measures have been implemented to address each of these problems?

2. What specific measures has the department taken to fast-track applications for teacher accommodation and requests for additional classroom accommodation, given comments made by teaching staff to the ERU two years ago?

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

NICHOLLS CASE

The Hon. K.T. GRIFFIN: I seek leave to make an explanation before asking the Attorney-General a question on the subject of Nicholls' bail.

Leave granted.

The Hon. K.T. GRIFFIN: Nicholls has been in gaol since 19 April on a conviction for contempt of court. He has lodged an appeal. It appears that there has been some confusion over which court should hear the appeal, the Full Court of the Supreme Court or the Court of Criminal Appeal, essentially comprised of the same people. It appears that there is also a problem in that the judge who has heard Nicholls' bail application has stated that there is no presumption in favour of the release of a person on bail where that person has been convicted and has lodged an appeal whether against the conviction or the sentence. This is not the position with those awaiting trial and in these cases the Bail Act contains a presumption in favour of the accused being released.

The Director of Public Prosecutions argued yesterday, as I understand it, that there should be no release on bail because there were no exceptional circumstances to justify it—with the emphasis on exceptional circumstances. While the judge, I would suggest, is correct that he has an unfettered discretion in Nicholls' case, and other similar cases, as to whether or not bail should be granted, and is correct in regarding contempt of court as serious, there are grave concerns about the provisions of the Bail Act and the way the judge has exercised his discretion in deciding that there were no exceptional circumstances sufficient to warrant Nicholls' release.

Under section 4 of the Bail Act, Nicholls is believed to be in a category of persons who may appeal. He has been convicted but has not exhausted all rights of appeal. However, I understand that the issue was raised yesterday as to whether contempt of court is an 'offence' and whether the period of four months for which he has been committed is, in fact, a sentence within the meaning of the Bail Act.

If Nicholls had not been convicted there would have been, as I have already indicated, a presumption in favour of release unless, having regard to a number of factors, the court considered it inappropriate to release the defendant. Those factors include whether or not if released Nicholls would abscond. Nicholls has a wife and four young children and one must ask the question if, in those circumstances, he is likely to abscond. The court must also take into account the likelihood of Nicholls reoffending, and a number of factors, all of which could reasonably be answered in the negative.

It is interesting to note information from the 1991 Crime and Justice Statistics from the Office of Crime Statistics in relation to the Supreme Court and the District Criminal Court and the courts of summary jurisdiction relating to bail status at final court appearance or following final committal hearing. In those statistics there does not appear to be any data available in relation to those who may have applied for bail after they have appealed. In the Supreme Court and District Criminal Court the bail status of defendants following the final committal hearing is as follows, and this relates to the major charge, and whether on bail or in custody:

Major Charge	On Bail	In Custody
Offences against the person	218	74
Robbery and extortion	40	75
Sexual offences	185	37
Drug offences	262	28
Fraud and deception	115	32
Break and enter	130	98
Other offences	234	108

The Hon. C.J. Sumner: This is before they are tried.

The Hon. K.T. GRIFFIN: Yes. I acknowledged when I indicated what the statistics were that it was following the final committal hearing, not the final resolution of the case.

The Hon. C.J. Sumner: What is the relevance of that?

The Hon. K.T. GRIFFIN: You will find out. In the courts of summary jurisdiction, for offenders where there have been two or more court hearings, for a variety of offences, 16 021 offenders were on bail and 1 724 were in custody. These figures must seriously raise the question whether the refusal of bail for Nicholls, who has not exhausted all his appeal rights and who is not a dangerous criminal, was appropriate when a significant majority of those charged with serious crimes against the person, prior to final disposition, have been released on bail. My questions are:

1. Does the Attorney-General agree that the issue as to whether the appeal should be dealt with in the Full Court or the Court of Criminal Appeal is, in the scheme of things, a trivial side issue, but should be resolved legislatively or otherwise?

The Hon. C.J. Sumner: It has been resolved.

The Hon. K.T. GRIFFIN: Well, not just in relation to his case.

2. Will the Attorney-General examine the relevant provisions of the Bail Act to determine whether or not amendments should be made, first, to put beyond doubt that a person committed for contempt is eligible for release on bail and, secondly, to ensure that, where a person is appealing against conviction or sentence, the court must take into account all the criteria which apply to bail for accused persons not yet convicted?

The Hon. C.J. SUMNER: As to the first question, I understand that the Full Court has resolved that matter

and that the appeal will be heard next week. I do not know whether there is any need to legislate in relation to it. The court has considered the matter and determined how cases of criminal contempt should be dealt with. If there is any problem with it in future, no doubt it can be looked at.

As to the question of bail, I am not sure about the relevance of the honourable member's statistics. In fact, they were irrelevant. The honourable member gave a lot of statistics about people who were released on bail before they were tried—before they were convicted of offences. That is not relevant to the current situation. It is quite inappropriate and verging on the misleading to—

The Hon. K.T. Griffin: That is not the basis upon which I raised it.

The Hon. C.J. SUMNER: There is no basis. It is verging on the misleading to bring into this debate the situation of people released on bail before they have been tried and found guilty. That is not the situation in this case. The honourable member acknowledges it, and that is fair enough. If it is not the situation in this case, then what the honourable member says about it, and those statistics, is irrelevant to this debate. Those people had not been tried and convicted. In this case, with respect to the contempt matter, Nicholls has been found guilty—he pleaded guilty—and has been sentenced. There is a clear difference between the two categories that the honourable member has outlined.

As to whether bail should have been granted in this case, all I can say is that it was a matter for the judge to exercise his discretion. I believe that the discretion would have been there—and I think the judge acknowledged that—to release Mr Nicholls on bail, but he decided in the circumstances not to exercise the discretion to release on bail, given the fact, I presume, that Nicholls had pleaded guilty, had been convicted of contempt of court, was undergoing a sentence and that the appeal against that sentence would be heard fully in a few days' time. I assume those were the factors that influenced the judge in refusing to grant bail. It was within the discretion of the judge to release on bail or not. He decided not to do so. The Hon. Mr Griffin has now raised a question about the law, I assume, for the future, namely, that there had to be, in his words, exceptional circumstances to release on bail after a conviction and sentence. I assume that the honourable member is quoting the judge accurately. Certainly I can have a look at what the judge had to say to see whether there is any need to look at the matter legislatively. I do not believe there is any doubt that discretion existed in this case and, taking all the factors into account, the judge decided to exercise his discretion against bail.

ARTS, MULTICULTURALISM

The Hon. DIANA LAIDLAW: I seek leave to make an explanation before asking the Minister for the Arts and Cultural Heritage a question about multiculturalism in the arts.

Leave granted.

The Hon. DIANA LAIDLAW: An internal review by the Arts Division last year recommended the establishment of a timetable for the integration of multicultural arts within all art forms and programs, commencing in June 1993, which is next month. Subsequently, in late March and early April this year, the Department for the Arts and Cultural Heritage circulated for discussion a draft strategy on multiculturalism in the arts, prepared by the Multicultural Arts Advisory Committee. The draft strategy is a multicultural monster.

Multiculturalism in the arts is a worthy goal, but rather than allowing multiculturalism to become a part of the expression of the arts community in South Australia the draft strategy imposes multiculturalism through a bureaucratic regime designed to engineer changes in the priorities of funded organisations. The draft strategy advocates that a complex system of targets be set for all art forms and programs based on the latest data provided by the Australian Bureau of Statistics relating to the proportion of first and second generation non-English speaking background people in the South Australian community.

To set these targets the draft strategy proposes that, prior to the annual budget process, the Arts Finance Advisory Committee meet with all art form advisory committees, which in turn will be revamped to incorporate a multicultural perspective.

It is also proposed that specialist art form officers be appointed and trained 'to deal with the greater flexibility and adaptability required to meet the new demands for culturally inclusive programs'. The strategy claims that organisations which do not acknowledge multiculturalism in their management structures, programs or products should not be funded.

In recent weeks, various senior practitioners in the arts in South Australia have told me that they find the strategy scary, draconian and ideologically unsound. Certainly it is a radical strategy that proposes—irrespective of artistic merit, excellence or the quality of arts programs or the artistic skills and competence of administrators, staff, actors, artists or board members—that organisations will not gain funding in future if they do not meet multicultural criteria and targets. Their alarm, and mine, has been compounded by the fact that the Government is already asking arts organisations to achieve an almost impossible mission: to increase Australian content and to increase gender equity while becoming more commercial and entrepreneurial in their programming in the face of repeated funding cuts. Now, on top of all these demands, multiculturalism targets are proposed. Meanwhile, arts organisations were allowed two weeks only to provide feedback to the department on its multiculturalism in the arts strategy. I ask the Minister three questions:

1. Did the Minister endorse the release of the proposals outlined in the multiculturalism arts strategy prior to their circulation for comment in late March, early April?

2. Does she intend to endorse the strategy in its draft form with or without the benefit of feedback? I understand that there was limited feedback because arts organisations had so little time to do so. Does the Minister intend to endorse the strategy as the basis for future funding of arts organisations in South Australia?

3. If so, what is the timetable for implementation of the strategy?

The Hon. ANNE LEVY: They are a rather surprising set of comments from the honourable member. I am very interested to hear that when it comes to representation of women on boards and committees she is quite happy to endorse targets—I say 'targets', not 'quotas'—but when it comes to multiculturalism apparently targets are not appropriate. I would have thought that what applied in one area applied equally in the other. Targets are goals which one attempts to achieve but are not down as quotas which must be achieved. I would have thought from her endorsement of our policy regarding women—

The Hon. Diana Laidlaw interjecting:

The PRESIDENT: Order!

The Hon. ANNE LEVY:—that the honourable member's acceptance of targets and understanding of the concept of targets in that situation would extend to the concept of targets when we come to the multicultural area. I fail to see that there is any difference, either in concept or in practicality, in the two situations.

The Hon. Diana Laidlaw interjecting:

The PRESIDENT: Order, the Hon. Ms Laidlaw!

The Hon. ANNE LEVY: To answer the first of the Hon. Ms Laidlaw's questions, I endorse the release of the document which was prepared in the department and which was released for comment, but that does not mean to say that I endorse every word that is in it; nor does it mean that I do not accept every word that is in it. In endorsing its release, I felt it was a document that was worth circulating. I wanted various arts organisations and multicultural organisations to be aware of the thoughts and concepts which are explained in the document, and we wanted their reaction to it.

Very clearly, this is a draft policy and we wanted the views from various members of the arts and multicultural communities before finalising what will be a multiculturalism policy for the department. But a draft is not necessarily the final document. The draft was released for comment not just for two weeks; there was a four week period for comment and, at the request of various people who wanted longer to consider it, that has been extended to six weeks. There is no intention of rushing something through or of not providing people with an opportunity to comment. We welcome comment; we want the comment.

The final document will be prepared taking into account various comments which are being received during the consultation period. I see absolutely nothing wrong with that as a procedure. It strikes me as an excellent way of involving both the artistic and the multicultural communities in devising what we feel is necessary, and that is a clearly enunciated multicultural arts policy. This is a most desirable way of going about it and of involving all the people who will be influenced and affected by it. I am looking forward to getting summaries of the comments that have been received because I have not seen any at this stage. Obviously these will be taken into account in determining the final policy.

I think the honourable member suggested that the new policy was expected to begin in June. However, 1 July, and not June, has been suggested as the commencement day, so as to start with the new financial year. We have been giving very serious consideration to the composition of the advisory committees in the arts, and this has been discussed with a number of the arts advisory committees not with the intention of replacing anyone on those committees but of adding to those committees so that they will be able to take a broader view of the particular art form for which they are responsible.

As far as I am aware, there have been no adverse comments to that strategy with regard to the arts advisory committees structure. That is being proceeded with at this stage, although no final decisions have been made and will not be made until the final form of the multicultural arts policy has been decided and is available.

PUBLIC SECTOR REFORM

The Hon. L.H. DAVIS: I seek leave to make an explanation before asking the Minister of Public Sector Reform a question about public sector reform.

Leave granted.

The Hon. L.H. DAVIS: Yesterday the Minister announced in his major work entitled 'Public Sector Reform' that a business licence information centre of the Small Business Corporation will be opened in May this year. This one-stop-shop centre will assist businesses to deal with the licence requirements that are necessary for setting up in business. This policy was first announced by the Bannon Government in the early 1980s, and it was a promise at both the 1985 and 1989 State elections. In fact, on 21 November 1989—31 years ago—the then Minister of State Development and Technology (Hon. Lynn Arnold) reannounced the one-stop-shop centre as part of a wide-ranging strategy to support small business in this State. However, the Minister of Public Sector Reform no doubt would be well aware that all the other five States and two Territories have had a one-stop-shop business licence information centre for some time, in some cases for many years, and that South Australia in this area clearly trails the rest of Australia by some margin. The ministerial statement on public sector reform (page 24) stated:

> All Government agencies cannot afford to be structured for yesterday's conditions.

The Attorney-General's statement notes that there are 98 State Government statutory authorities, many derivative authorities, particularly in health, and over 270 smaller bodies such as advisory committees, tribunals and regulatory bodies. In other words, there are some 400 or more statutory bodies in existence in South Australia, according to yesterday's document of the Minister of Public Sector Reform.

Since 1986, I have advocated the establishment of a register of statutory bodies which can be a quick point of reference for interested parties such as members of Parliament or the community. This register could contain the names of board, committee or tribunal members, the annual remuneration of members, the date of the last annual report and a point of contact for interested parties. I recently asked the Minister whether the Government has, after seven years, made any decision on this matter because, in 1986 when I first raised it, the Minister seemed favourably disposed towards the idea. In fact, he said that he would take up the matter.

However, he told the Legislative Council earlier this year when I asked a question about this that it would have to wait until a major statement on public sector reform. Well, I did wait, and I am still waiting, because this major statement has no mention whatsoever of a register of statutory authorities, and therefore information will still be difficult to obtain on statutory authorities both big and small.

Private sector companies listed on the Stock Exchange are required to list directors' and executives' salaries and bands, and it seems reasonable that public sector bodies should be required to do likewise. The lack of public information available on statutory authorities even trapped the Minister of Public Sector Reform recently when he had to apologise to the Legislative Council for stating that 'Mr Kean did not take any director's fee with his position with SGIC.' The Minister gave me a big serve on this matter. He really bullied me and said that I had been outrageous in attacking Mr Kean.

Members interjecting:

The PRESIDENT: Order!

The Hon. L.H. DAVIS: It was a terrible outburst, Mr President, and he gave me a very big serve. But he had to apologise. In fact, he said in his apology, 'I believe I obtained my understanding from media reports on issues surrounding Mr Kean's involvement with SGIC.' The fact was, however, that Mr Kean obtained over $38 000 in 1991-92 from director's fees in SGIC and its associated companies. That highlights quite clearly the point I am making. My questions are:

1. Can the Minister explain why a one-stop-shop business licence centre has taken so long to be established in South Australia? In fact, we are limping towards it in May 1993, probably 10 years after the Government first made a public announcement about it.

2. Will the Minister explain why a register of statutory bodies in South Australia is not part of the public sector reform agenda?

The Hon. C.J. SUMNER: I cannot explain why the setting up of the one-stop-shop took the time the honourable member has outlined. However, the funds were obtained for it by my colleague the Hon. Ms Wiese when she was the Minister for Small Business. A commitment has been made and I am advised, and I indicated yesterday in my statement, that the current Minister responsible will open the information service at the Small Business Corporation during this month.

Regrettably in Government things sometime take longer than they should to achieve. Financial matters have to be taken into account as well as other matters. I would concede that this matter should have been done earlier; however, it will be in place later this month.

The honourable member, from time to time, has some quite reasonable ideas about public sector reform, and had I been the Minister of Public Sector Reform in 1986 I would have implemented every one of them immediately, but I did not have that responsibility at that time. Since taking up this post, only a few months ago, I have worked hard to develop policies in this area. I have actually taken account of some of the matters that have been raised by the honourable member over the years—he may not think that is the case, but it is true. I cannot say that he was constantly in my mind when I was preparing these statements and documents but he was at least partly in my mind because I was aware that he had raised the issue of statutory authorities reporting, and other matters relating to statutory authorities, in the past, and I was concerned to ensure that he was not left out of the picture.

Statutory authorities review was given a significant billing in the statement. There is an officer in the office of public sector reform who is working specifically on the question of statutory authorities. It is not that the Government has done nothing in that area because a number of statutory authorities have in fact been abolished as part of the deregulation process set up by Government some years ago. The honourable member may be able to point to one area, the one-stop-shop, where it was not implemented as quickly as possible but there are others where our program has led to action. I mention the abolition of some of the statutory authorities which existed previously. So the Government has been active in that area and in the area of deregulation generally.

I certainly believe that we have to take steps to get a greater handle on the basic procedures relating to statutory authorities than we had in the past. One of the tasks that the office of public sector reform is currently carrying out is the process of ensuring that there is a comprehensive list, or a register, if you like—not as comprehensive as the honourable member's—of the statutory authorities across all agencies of Government. I hope to put in place procedures to ensure that they report on time; that there are proper follow-ups for statutory authorities that are not reporting on time; that they are asked why not; and that they give reasons why not.

One would expect that with modern technology it would be possible to have a register of statutory authorities to enable an eye to be kept on the basic accounting and procedural aspects of them. Certainly, from time to time we have to examine whether the statutory authorities are still serving the public interest, etc. That is a policy issue which needs to be looked at across the whole of Government. But when you have a statutory authority it is important that it reports on time, issues its financial statements on time, that there is information about it, and its membership. I do not know about the question on the salary of the members; certainly I have no problems with that, and I think most of the salaries of statutory authority members are available anyhow because they are the subject of determination by the Commissioner of Public Employment.

So, there is nothing in the statement yesterday specifically about a register but certainly one of the things I have asked the office of public sector reform to do is to produce a comprehensive list. I have asked it to look at putting in place mechanisms to ensure that statutory authorities report on time. Whether that will be done centrally or in each individual department I cannot say yet but certainly that process is in place.

I accept what the honourable member has said about the importance of ensuring reports are on time, etc. I will see whether that extra step can be taken to determine whether there is a case for a central register with all that information. As I said, in this day of technological advance, it should be possible and I will certainly examine it but I can say that I have already taken steps to

try to put in place procedures to ensure that what statutory authorities are required to do under their legislation they do in fact do.

HOFEX

The Hon. I. GILFILLAN: I seek leave to make an explanation before asking the Attorney-General, representing the Premier, a question about the lack of South Australian representation at the world's largest food and beverage exhibition?

Leave granted.

The Hon. I. GILFILLAN: Information came through to me from Hong Kong this morning from a South Australian who was at the world's biggest and most influential food and beverage exhibition which is drawing to a close this weekend in Hong Kong. The exhibition is known as HOFEX. It is the fifth Asian international exhibit of supplies, equipment, food and beverages and this year has attracted more than 20 000 delegates from dozens of countries around the world, along with representation by more than 1 100 companies and producers.

Australia is represented by all States except South Australia. The biggest and best display of fresh food and produce, including wine, is from Tasmania, which has largely stolen the limelight at the show with the help of the Tasmanian Government as is acknowledged at their stall. All other States are well represented at the international expo in their attempts to win a share of the multi-billion dollar international food and wine market, such as New South Wales' Hunter Valley with its wine, Queensland with tropical foods, Tasmania, as I have outlined, with fruit, wine and dairy produce and Victoria and Western Australia with their range.

What was put to me as a major scandal is that South Australia completely overlooked this opportunity. There is, however, a small and bold display by Marienberg Wines, which members may remember is a wine label in the Adelaide Hills. It is now bought and owned by a Sydney company, not South Australian. How successful its efforts will be on behalf of South Australia is questionable.

The Hon. Anne Levy interjecting:

The Hon. I. GILFILLAN: Look, the Government should hang its head in shame instead of interjecting about this. How successful Marienberg will be on behalf of South Australia is questionable given that the display occupies approximately two square metres—in other words two telephone booths, it was put to me—among an exhibition of more than 75 000 square metres.

Clearly this Government has missed a golden opportunity to promote the State's goods and products to the largest select hospitality audience in the world. We have heard the Government trumpeting about prime tourist destinations, such as Australia's wine mecca, the Barossa Valley. This area is not even represented at all. The leading wine display is put there by the Italians.

With our meat industry feeling the strain of tough times the Government again failed to offer any assistance to that industry by promoting meat but Scotland has snared a lion's share of that market with fresh meat at the international exhibit.

While the State's Riverland orange growers are driven to their knees in the face of shrinking markets and overseas imports, the Government has failed to take advantage of the fact that this year's international food and wine show is in Hong Kong, a city that holds the title for the largest consumption of orange juice per head in the world, estimated at 21 litres per person per year, all imported—an ideal market.

Last week the Premier proudly announced he will leave soon on a trade mission to Asia, including China and Japan, but he obviously overlooked the Hong Kong Expo to the cost of the State's ailing economy. This most profitable window into the world of international food and wine this year has been closed to this State's producers, thanks to the inexplicable neglect and ignorance of the Premier and his Government. Once again, South Australia has missed the boat. My questions to the Premier (and the Attorney may care to answer them) are:

1. Why has the State Government failed to see that South Australia is represented at the world's largest and most prestigious food and wine exhibition?

2. Did the Premier or any of his senior advisers, or indeed, any of his Ministers, have any knowledge of this international exhibition? Did they know it was on?

3. If not, will the Premier undertake a full inquiry into this scandal that has left him and his Government ignorant? Obviously someone in the department has not been doing their job properly.

Members interjecting:

The PRESIDENT: Order!

The Hon. I. GILFILLAN:

4. If he did know, what is his excuse for failing to promote and inform the producers of South Australia so they could take this very lucrative opportunity?

The Hon. C.J. SUMNER: I will refer those questions to the appropriate Minister and bring back a reply.

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: On 3 and 25 March 1993 I asked questions about the State Bank group. I specifically sought information about Beneficial Finance and its wholly-owned subsidiary Luxcar Limited. I also requested information about the status of the special superannuation fund which had been established for the benefit of the bank's executives. In a media release dated

4 March 1993 Mr Ted Johnson, the Managing Director of the State Bank, refuted assertions that the bank operated superannuation funds which did not comply with the general superannuation/taxation requirements.

In his response to my questions, the Treasurer (Mr Blevins) further confirmed that he had been advised that the executive/specialist superannuation fund had been established in 1986 and had always complied with the Federal taxation and superannuation regulations. I have been informed that, at an executive committee meeting held on 16 February 1990, the General Manager, Group Human Resources, presented a paper for consideration.

The submission confirmed that the Executive and Specialist Fund and the State Bank Superannuation Fund were both established under the old section 23 JAA of the Income Tax Assessment Act which allowed statutory authorities the freedom to establish and operate funds without having to comply with the superannuation/taxation requirements applicable generally throughout the industry and the community.

At the meeting, the executive committee also considered amendments to the Income Tax Assessment Act which required that funds comply with the vesting of contributions, preservation and portability of benefits to achieve taxation advantages. However, the State Bank group held the view that because of its special status it did not have to comply with these requirements, and a letter was written by the bank to the Insurance and Superannuation Commission outlining the special circumstances applicable to the State Bank superannuation funds. My questions are:

1. Will the Treasurer confirm or deny that the superannuation funds operated by the State Bank did not fully comply at all times with the superannuation/taxation requirements applying to other funds?

2. Will the Treasurer advise why the information he has given contradicted the information contained in the minutes of the executive committee meeting held on 16 February 1990?

3. In relation to Beneficial Finance, will the Treasurer confirm or deny that the settlement of the tax audit involving Luxcar transactions and other activities of the various entities within the Beneficial group involved the payment of nearly $50 million to the Australian Taxation Office? If this was not the amount of tax paid, will the Treasurer advise the exact amount paid by Beneficial Finance to settle its tax liabilities arising from the global tax audit of its operations?

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

UNIVERSITY QUALIFICATIONS

The Hon. BERNICE PFITZNER: I seek leave to make a brief explanation before asking the Minister for the Arts and Cultural Heritage, representing the Minister of Education, Employment and Training, a question on the subject of the recognition of qualifications.

Leave granted.

The Hon. BERNICE PFITZNER: It has come to my notice that the civil engineering degree from the University of South Australia is not recognised in Singapore. It is alleged that a group of 1990 graduates, after not being able to find a job for 18 months, were advised by CES to try overseas, in Singapore. Four civil engineering graduates went to Singapore and found that their degrees were not recognised. Apparently the civil engineering degree from the University of Adelaide is recognised in Singapore. Professor Hobson, Dean of the Engineering Faculty of the University of South Australia, went to Singapore but apparently the senior officers of the Professional Engineers Board were unavailable to meet with him. It does beg the question whether an appointment was made and confirmed before Professor Hobson left for Singapore.

It is reported that each year 180 engineers are produced locally in Singapore and all are absorbed into positions in Singapore. As members know, I will be going to Singapore and I hope to meet with an official from the Professional Engineers Board to further investigate the problem. My questions to the Minister are:

1. Why is the civil engineering degree from the University of Adelaide recognised in Singapore whereas the civil engineering degree from the University of South Australia is not recognised?

2. Which countries do not recognise civil engineering degrees from the University of South Australia and from the University of Adelaide and, if there is a discrepancy between the two universities, what is the reason for that?

3. In these times of high unemployment, even for university graduates, will the Minister look into the universities providing their new graduates with information as to the status of their qualifications overseas?

The Hon. ANNE LEVY: It is very interesting indeed that there is now concern about mutual recognition of degrees from overseas. That flies in complete contrast to the attitude taken by members opposite on mutual recognition within Australia. We are more concerned about recognition of degrees from Singapore than we are with the recognition of qualifications from Melbourne, Sydney, Brisbane, Hobart, Perth or Darwin. It does seem a rather strange order of priorities coming from members opposite.

Members interjecting:

The PRESIDENT: Order!

The Hon. ANNE LEVY: However, for a detailed response, I will refer those three questions to my colleague in another place and bring back a reply.

MODBURY AMBULANCE SERVICE

The Hon. PETER DUNN: I seek leave to make a brief explanation before asking the Minister representing the Minister of Health, Family and Community Services a question about the Modbury ambulance service.

Leave granted.

The Hon. PETER DUNN: I understand that the Modbury ambulance station is housed in the nursing home building at the Modbury Hospital. I also understand that the ambulance staff refuse to live and work in the nursing home building because they say the air-conditioning is unsatisfactory, yet the staff at the hospital servicing that area use the same building. The ambulances servicing Tea Tree Gully and Modbury are therefore stationed at Salisbury, Prospect and Campbelltown. My questions are:

1. Is it the intention of the Minister or St John not to have ambulances at Modbury?

2. Is the air-conditioning at the nurses' home unserviceable, too small or in need of replacement?

3. What is the extra time that Modbury and Tea Tree Gully patients must wait before obtaining an ambulance from Salisbury, Prospect or Campbelltown?

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

YATALA LABOUR PRISON

In reply to **Hon. I. GILFILLAN** (23 March 1993).

The Hon. C.J. SUMNER: The Minister of Correctional Services has provided the following response:

1. G Division is not a punishment area. It is the department's high security accommodation area where prisoners are placed for varying lengths of time because they are unable to be placed in the normal prison environment for a variety of reasons.

2. Prisoners are, on occasions, placed under observation in jockette underpants and security blankets for their own welfare and to prevent self inflicted injuries. The observation cells in G Division are designed to minimise the risk of suicide and self inflicted injury at Yatala as they do not have the amenities permitted in other cells. This procedure minimises the possibility of attempted suicide. Since the introduction of security blankets to replace normal bedding and the removal of clothing with the exception of underpants, there have been no incidents of attempted suicide in the G Division observation cells. Prisoners are placed in these cells, on observation for a variety of reasons:

- being under the influence of drugs
- displaying signs of stress
- being emotionally upset
- depression
- violence and/or aggressive behaviour
- self-inflicted injuries
- threatening suicide

Generally, prisoners are held under observation until their condition is stabilised or until they show definite signs of improvement. The only officer authorised to remove a prisoner from the observation regime is the Manager G Division. The observation cells are not used as punishment. Observations are carried out at 15 minute intervals unless otherwise specified by a medical officer.

There is no 'solitary confinement' in G Division or any other area of Yatala Labour Prison. There is, however, a regime known as separation, which occurs pursuant to Section 36(1) of the Correctional Services Act. This allows for prisoners to be kept physically separate from all other prisoners, but does not preclude interaction with other prisoners who may be in adjacent yards or cells.

The reason for placement of prisoners under separation are outlined in Section 36(2) of the Correctional Services Act,1982 as follows;

The Chief Executive Officer may direct that a prisoner be kept separately and apart from all other prisoners in the correctional institution if the Chief Executive Officer is of the opinion that it is desirable to do so—

(a) in the interests of the proper administration of justice where an investigation is to be conducted into an offence alleged to have been committed by a prisoner;

(b) in the interests of the safety or welfare of the prisoners;

(c) in the interest of protecting other prisoners;

or

(d) in the interests of security or good order within the correctional institution.

WOODVILLE RAILWAY STATION

The Hon. DIANA LAIDLAW: I seek leave to make an explanation before asking the Minister of Transport Development a question about a fire at Woodville Railway Station.

Leave granted.

The Hon. DIANA LAIDLAW: This morning I received representations from a concerned South Australian who had observed last night a fire being lit at the Woodville Railway Station. He advised me this morning that at about 8.15 last night he witnessed four youths aged 16 to 17 years lighting a fire at the station. He said there was already a smoky, horrible smell from another fire which apparently was from a sanitary napkin which had been set alight and then this other fire followed. He said the four youths hopped onto the train but vacated it before it stopped at the Cheltenham station. When my constituent arrived at Adelaide Railway Station later that night at about 10.40 p.m. he saw one of the alleged offenders who had been involved in lighting the fire earlier in the evening. He reported this to the Transit Office at the Adelaide Railway Station which arranged for two officers to be called.

My constituent advises that he offered to make a statement regarding the incident but was told that that was not necessary because it was only a minor offence and that somebody else would decide whether or not it should be prosecuted, at which time he could be contacted to make a statement. He was also told that the offender was known to the transit police; but they allowed the alleged offender to leave at the time and no photograph was taken. I have been provided with this advice because my constituent is concerned that the fire was being deliberately lit at the railway station and yet the incident was dismissed by Transit Squad officers later in the evening. He has asked that the Minister investigate the matter because he would claim that the incident was not a minor one but was in fact attempted arson.

The Hon. BARBARA WIESE: If the honourable member provides me with details about this alleged incident I will be happy to refer the matter to the appropriate people and have it investigated.

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 at an executive committee meeting of the State Bank Group held on 16 February 1990 the Group Managing Director, Mr Tim Marcus Clark, highlighted the considerable benefits that would derive from weekend trading, given the bank's involvement in the Myer redevelopment and the Beneficial Finance involvement with the East End Market project. The Group Managing Director advised the meeting that the issue would need to be handled with some caution due to the politically sensitive nature of the matter. He further advised that a private campaign by a small group would be appropriate.

I understand that the meeting agreed that the matter should be referred to the Chief Manager, Planning, for the preparation of a paper after consultation with the other chief managers within the State Bank Group. I am informed that at a subsequent meeting of the executive group held on 5 March 1990 a paper was presented for consideration. The paper evaluated the issue on the basis of its political implications and the impact on the group,

as well as considering the role which the State Bank should adopt in facilitating the debate. Given that thousands of small businesses that are customers of the State Bank are against seven day a week trading, my questions are:

1. Did any Government Minister or Government official have any discussion with the State Bank Group about the Government's proposed seven day a week trading initiative? If so, what were the details of those discussions, when did they take place and who was involved?

2. Will the Treasurer advise the reason why the State Bank would consider steps to promote a seven day a week trading proposal which was an initiative strongly opposed by thousands of State Bank customers?

3. Will the Treasurer advise Parliament of the steps undertaken by the State Bank Group to promote seven day a week trading and provide details of any costs which may have been incurred in the exercise?

The Hon. C.J. SUMNER: I doubt whether that question can be answered, Mr President. It is so broad—

The Hon. J.F. Stefani: Why?

The Hon. C.J. SUMNER: You say 'any Government Minister or Government official'. What are you going to do: go for a search right throughout the Government to see whether anyone has mentioned anything to the—

The Hon. R.I. Lucas interjecting:

The Hon. C.J. SUMNER: It also dates back to 1990. I am not sure what the relevance of it is to today's circumstances.

The Hon. R.I. Lucas interjecting:

The Hon. C.J. SUMNER: The Government has not adopted seven day a week trading. It is not only the State Bank that apparently supported it. The newspapers in this town, and the media, have tended to run a fairly forceful campaign for seven day trading. There are elements within the Liberal Party that support seven day trading. As the honourable member would know, they support the deregulation of shopping hours. It is not an issue which somehow or other has been cooked up within the State Bank and which has been its interest exclusively. There is a wide range of people in the community who support seven day trading. My guess is that the tourism industry supports seven day trading. I know that some sections of the retail industry support extended trading hours. I do not think the question can be answered, but I will refer it to my colleague to see if he wants to add anything to what I have said.

RAILWAY ELECTRIFICATION

The Hon. T. CROTHERS: I move:

That this Council calls on the Commonwealth—

1. To consider and assess the option of the electrification of all of the railway systems under its control using solar power as the energy source required for such a system; and
2. If such a system is feasible, to encourage all State Governments and privately owned railways systems to adopt the system of electrification using solar power as the energy source.

Mr President, the notice of motion standing in my name calls upon the Federal Government to conduct a feasibility and assessment study into electrification of all the railway systems under its control, using solar power as the energy source and then, if such a system is feasible, to encourage all State Governments and privately owned railway systems to adopt the same system.

As I see it, the two most important component parts of such a study would be the physics involved and the monetary cost of setting up the infrastructure of such a solar powered system. This is an idea which has exercised my mind for some time, and looking further down the Notice Paper I see that the Hon. Miss Laidlaw has a motion calling on the Federal Government to complete the remaining rail link between Darwin and Alice Springs. In her speech in moving this motion, the Hon. Miss Laidlaw set the distance of this remaining link at 300 kilometres. The completion of that railway link is a laudable idea and one that has had the support of the Australian Labor Party in this State from time immemorial.

The Hon. Diana Laidlaw: The survey is 300 kilometres, not the whole line.

The Hon. T. CROTHERS: Thank you. All the recent leaders of the ALP in South Australia, from Don Dunstan through to the present Premier, Lynn Arnold, have, on numerous occasions, made the strongest possible representations to successive Federal Governments without success. Certainly it is in South Australia's best economic interests to have the link completed. However, the more I have thought about this issue, the more I thought about the necessity of introducing a notice of motion in respect of solar energy power, unless it appears on today's Notice Paper.

I said from the outset that the two most important aspects of this study would be the physics and the cost of infrastructure of such a solar powered energy system, and I propose now to turn my mind to those two subject matters. I am told from several sources that the physics are currently available but the present state of the industry, given the huge distances in Australia, would make the cost of such a system very high.

Presently, the city of Fresno in the United States, with a population of some 24 000, is drawing her power requirements from solar power. I further understand that Katherine in the Northern Territory, with a population of just over 4 000, is also about to draw its energy requirements from solar power. Indeed, my parliamentary colleague, the Hon. Ian Gilfillan, has drawn to my attention that there is a solar-powered funicular railway which is currently operating in Switzerland, and he may have more to add to that.

I realise that there is a vast difference between a lightweight passenger train operating by cable over a short haul and the type of 5 000 or 6 000 tonne freight train operating over a very much larger distance in Australia. However, it is very true to say that advances in the field of solar energy over the past 20 years have come on by leaps and bounds. Many of these advances have resulted from developments here in Australia, and

we are now a large exporter of solar systems throughout the world.

With that said, the question of physics is all important and very germane to my notice of motion. I believe that the pace of solar energy technological advancement would be much more rapid if there were to be an injection of Commonwealth funds instead of the industry having to operate on a shoestring as has hitherto been the case.

I now turn my mind to the cost, both the pluses and minuses, of such a system and of solar powered generation, and I propose to deal first with some of my minuses. Number one would obviously be the cost of installation of any structure required to set up such solar forms as would be required. Number two would be the cost of conversion of any rail track locomotive, rolling stock and other components of the rail system which would require such conversion to give effect to the system. Number three would be the cost of the intellectual property rights for such a system if one did not, in fact, own the intellectual property itself.

This list is not meant to be exhaustive but is used merely to illustrate that some very heavy costs would be involved in setting up such a system. However, I would contend that to do nothing now could well put the cost of developing the technologies well beyond Australia's reach in the not very distant future.

The Hon. I. Gilfillan: We should have been at the front, but we've been at the back.

The Hon. T. CROTHERS: We are in the front at the moment, and I simply want us to stay there.

Let me now turn to what I consider the pluses of such a system would be. Again, I point out to the Council that the list is by no means exhaustive. First, railway systems lend themselves to solar energy projects because of the land that railways own either side of the railway tracks. Secondly, there is no cost of the intellectual property if one owns it oneself. Thirdly, as oil reserves around the world, and in Australia particularly, diminish, Australia's import bill will rise accordingly. Fourthly, if one owns the intellectual property then it can be sold, or licensed out, to others or to overseas interested parties.

Fifthly, I refer to the cost savings brought about by diminishing damage to the environment by using a clean energy source, and again I say that this list of cost pluses is by no means exhaustive.

Other considerations which I believe must be considered by this Council are that if such a scheme is deemed to be feasible then the 300 kilometre distance (and I understand that that is not correct)—

The Hon. Diana Laidlaw: That is the survey distance.

The Hon. T. CROTHERS: The 300 kilometre survey distance between Darwin and Alice Springs would be an ideal test bed for such a system and, even if such a scheme was not considered feasible at this time, it would be an ideal project for the Adelaide MFP.

Finally, I hold that our remaining reserves of hydrocarbon fuel should not be frittered away. They are too valuable in respect to the pharmaceutical and other by-products that are commonly produced from them. As I see the cost of the matter, the question that exercises my mind is: 'Can we really, as a nation, afford not to proceed with solar energy projects of this nature?' If we really are to become the clever country, then it is our success in these and other research projects, such as this, that will determine our future, coupled with our willingness to invest whatever money is necessary in order to succeed.

I commend the motion to the Council and ask that it be supported. Honourable members will notice that my motion calls on the Federal Government to conduct a feasibility study, and there were two very good reasons for that. The first—and it is very obvious—is the cost factor and the second is for environmental reasons. There must be mutuality of laws if we are to gain maximum benefit in our efforts to protect and cleanse the very air that we breathe. I never again want to see a River Murray situation, which is now so heavily polluted that at times when its waters reach South Australia they are virtually undrinkable.

This is because of a lack of mutuality of laws. It means that the States at the headwaters of the river use the watercourse as a virtual open sewer. This is despite having a Murray River Commission which, over the years, as far as South Australia is concerned, has been a toothless tiger. The Murray recognises no State boundaries. It was this and other considerations that made me realise the imperative nature of the mutuality of laws between the States. It is, as I have said, one of the reasons why my notice of motion refers the matter to the Federal Government.

In light of the time constraints upon us because of the heavy work load that we have today, I will conclude by commending the motion to the Council.

The Hon. I. GILFILLAN secured the adjournment of the debate.

FRUIT, VEGETABLES AND OTHER PRODUCE (PAYMENTS TO PRODUCERS) BILL

The Hon. M.J. ELLIOTT obtained leave and introduced a Bill for an Act to regulate payment to the producer for fruit, vegetables and other produce; and for other purposes. Read a first time.

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

That this Bill be now read a second time.

Being aware that this is the second last day of sitting and that we have an enormous amount of private members' business today, it is not my intention to speak at great length on this legislation. It is a matter that I have canvassed extensively in the public arena—at least in those circles which have an interest in the matter.

Having lived in the Riverland for quite a significant period, I became aware of a major problem in relation to payments from wholesalers and retailers who buy from the primary producer. It happens not just in relation to agents operating out of markets, such as the Pooraka market; there are difficulties also in relation to some of the big retailers who buy as much as 30 per cent to 40 per cent of the fruit and vegetables, and they buy much of their produce direct rather than through agents. Of course, there are other purchasers, including wineries and other processors of fruit and vegetables. Some of these companies, being major buyers, take advantage of their position in the marketplace and they take extraordinarily long periods to pay for the produce. For example, wineries sometimes do not pay for several

years for produce that they have taken from the growers. There are any number of cases of agents who are slow payers, and occasionally the slow payments mean that the agents are in trouble. In the last year or two there have been a few cases of agents in South Australia and interstate who have gone bankrupt, leaving extraordinary debts to primary producers.

This is not a small problem. It has been tackled in all the eastern States, where growers now have guaranteed terms of payment, particularly in relation to fruit and vegetables going into the markets, together with honey and other products in Victoria. The terms of payment being reliable make the market more attractive. That, allied with the fact that most of the eastern States have fruit and vegetable grade standards—something that we do not have in South Australia—means that the eastern markets are far better for growers. In consequence, the South Australian consumer is also a loser in relation to the quality of fruit and vegetables coming to our markets. Our good growers with good produce are more tempted to go to the eastern States. In fact, the absence of fruit and vegetable grade standards means that South Australia has become a dumping ground for low-quality fruit and vegetables from the eastern States. That is not supposition. I have seen a newsletter of the Apple Growers Association of Victoria recommending its members to send their low-quality apples to the Adelaide market.

As I said, this is not a small problem: it is a problem to which growers have been seeking a solution for a very long time. Following meetings that I had with grower organisations about September last year, I gave an undertaking to take up the issue and try to progress it. Late last year the Horticultural Association in the Riverland sponsored a major dinner. Among the guest speakers were the Minister of Primary Industries, the shadow Minister of Primary Industries and me, and also public servants in charge of fruit and vegetable regulations and Acts in Victoria. The whole subject of the night was about guaranteed terms of payment. I am pleased to report that the pressure is finally starting to tell.

A large number of agents are now negotiating with the Riverland Horticultural Association and the Farmers Federation a form of voluntary agreement, and that is very pleasing. There is not much doubt that the very threat of legislation has been enough to hurry the process along. If that is so, that pleases me. Nevertheless, it has to be noted, as I did when I spoke earlier, that large amounts of fruit and vegetables are not sold through the Pooraka market. A lot is sold direct to retailers and perhaps to other agents outside the Pooraka market, and it is likely that some agents at the Pooraka market will not be in on the agreement. So, a significant number of growers will still not have guarantees of payment.

I believe that the Bill that I now have before the House will mesh in very well with this voluntary agreement that is being negotiated, because this legislation proposes a form of negative licensing. By 'negative licensing', I mean that producers and the people in the markets or the retailers can continue doing business exactly as they are now with no need for a licence. However, this piece of legislation would have particular requirements in terms of payment, time of payment, etc. A consequence of that would be that, if an agent does not comply with it, a grower can go to the Minister—obviously, via the Minister's department—and lodge a complaint, and the Minister can require the purchaser to pay within a set period.

If the purchaser fails to do so, he or she will not be allowed to continue trading. In other words, it is acting, as I said, as a form of negative licensing. It is attractive, because it means that you do not have to go around assessing everybody; you do not have to licence them; and you do not have all the costs and the bureaucracy that a positive licensing system would require.

The voluntary agreement should work quite satisfactorily. It will not interfere with that. But, at the end of the day, if some people are not playing the game the Minister will be able to intervene.

My intention at this time, obviously in the last week of Parliament, was not that we would go through to a vote but that I could get this piece of legislation on the record, that it could be debated in the public arena over the next three months or so until Parliament resumes and then, if there is the support for this Bill from the relevant sections of the public, I will seek to reintroduce it and pick up any amendments that would be suggested following those discussions in the public arena. I hope that the Government and the Opposition would look favourably upon it.

I can certainly assure members of this place that the very reason for this legislation to start off with is very strong demand for such legislation from the relevant producer interest groups. It is fair to say that there is some nervousness among agents. I understand that but, as I said, a negative licensing system should not be any particular threat to them. In any event, although my negotiations with that particular group have not been extensive at this stage, it is certainly my intention that they will be during the break. The primary purpose of my discussions so far has been to make sure that I have a system which in general terms works and with which the producers themselves are generally happy.

Clause 8 of the Bill is the only clause to which I will now refer specifically. The Bill provides that the producers guarantee fund will be established by regulation and that the regulations will provide for the amount of a levy to be paid by producers into the fund and the circumstances in which the fund will be applied for the benefit of producers. Clause 8 is a money clause for the purposes of the Constitution Act 1934, and section 61 of that Act provides that a money clause may originate only in the House of Assembly. Section 62(2) provides that the Legislative Council may send a Bill containing a money clause to the House of Assembly, but subsection (4) requires the clause to be printed in erased type. When the Bill reaches the House of Assembly, that House will not be able to pass clause 8 until the Governor has recommended its passage by message to the House. That is covered under section 59 of the Constitution Act 1934.

So, that forms the latter part of my comments—quite hypothetical. This is not making the journey to the House of Assembly at this stage but, because there is a clause in erased type, I needed to bring that to the Council's attention. I urge honourable members of this Council to give this matter serious consideration. As I said, it does

have strong support from the relevant interest groups, and I look forward to public debate over the next three months. Presuming that the response continues to be positive, I will return with this Bill, possibly in an amended form, in the next session. I urge members of the Council to support the Bill.

The Hon. I. GILFILLAN secured the adjournment of the debate.

RAPE IN MARRIAGE

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

That this Council notes the high level of public concern in relation to remarks made by Justice Bollen in a rape in marriage case. These remarks are regarded by many as discriminatory and degrading to women and that such beliefs are not in keeping with community attitudes.

It is not my intention—and from the wording of the motion I hope this is obvious—to discuss the relative merits or otherwise of the comments made by Justice Bollen in the rape in marriage case.

The Hon. R.I. Lucas interjecting:

The Hon. M.J. ELLIOTT: Not at this stage, no. I said that that is not the intention behind this motion, and if the honourable member lets me finish I will explain why. The intention behind this motion is simply that I believe the Council should note that a great deal of public concern has been expressed.

Yesterday outside Parliament I was presented with a petition which contained 8 500 signatures. The wording of the petition reflects the concerns in the motion that I have moved. Because it was considered that the wording of the petition did not conform to Standing Orders, I determined that I was not going to contest the Standing Orders and, indeed, I had no intention of doing so. I have a view about Standing Orders, but that is really beside the point.

I thought it was important that it was noted by this Parliament that 8 500 people were sufficiently concerned about the remarks made by Justice Bollen that they signed a petition. It concerned me, were the petition simply to be refused, that in effect those citizens, because they had filled in a form which was inappropriately worded, would not have their concern noted by this Parliament. I believe it is wrong of Parliament not to take note of that concern, and I suppose that there is a side issue—that Parliament should consider its Standing Orders. However, I do not want to go into that. I seek leave to table the signatures which were presented to me yesterday in support of the motion which shows that there is a high level of concern.

Leave granted.

The Hon. M.J. ELLIOTT: Those 8 500 signatures, Mr President, as I was going to say (but your statement earlier today pre-empted my comments somewhat), fit into a number of categories. About two-thirds to three-quarters of those signatures were addressed to the House of Assembly and the remainder to the Legislative Council. However, an identical petition had already been refused by the Clerk in the House of Assembly on the same sorts of grounds as occurred here.

Mr Heini Becker had been considering what he was going to do with a small number of petitions that he had at that stage, but it is a pointless exercise taking them there because they were going to be refused in exactly the same way as they were refused here. They are simply being tabled together as a record of concern of the citizens of South Australia.

Also, a small number of petitions were signed from interstate. Yesterday when I tabled the petitions I had actually separated them into four bundles, and the ones I presented for consideration in this Council were only those addressed to the Legislative Council and signed by South Australians. So, I was a little concerned by the comments because I had actually gone to the trouble of separating the piles and had only put forward the appropriate pile. The signatures that were put forward here fit into all four categories and, as I have already said, perhaps two-thirds or three-quarters of those were originally addressed to the House of Assembly; and the rest here, and only a very small number, were from interstate.

These signatures were collected, as I understand it, over a period of eight weeks. I think that to collect that many signatures in that period of time is quite significant. There have been larger petitions presented to this Parliament, but those larger petitions have usually been collected over a very lengthy period of time. This reflects, I believe, the high level of concern. The amount of contact that our office has had suggests that the public do believe that Justice Bollen behaved inappropriately; and with that high level of concern I felt obliged to ensure that those signatures were noted by this Parliament. I ask the Council to support the motion that that concern be noted.

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

ROCK LOBSTER FISHERY

Orders of the Day: Private Business, No. 2: Hon. M.S. Feleppa to move:

That the regulations under the Fisheries Act 1982 concerning rock lobster, made on 25 February 1993 and laid on the table of this Council on 2 March 1993, be disallowed.

The Hon. M.S. FELEPPA: I move:

That this Order of the Day be discharged.

Order of the Day discharged.

MARINE POLLUTION

Orders of the Day: Private Business, No. 3: Hon. M.S. Feleppa to 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 Hon. M.S. FELEPPA: I move:

That this Order of the Day be discharged.

Order of the Day discharged.

GAMING MACHINES

Orders of the Day: Private Business, No.4: Hon. M.S. Feleppa to move:

That the general regulations under the Gaming Machines Act 1992, made on 11 March 1993 and laid on the table of this Council on 23 March 1993, be disallowed.

The Hon. M.S. FELEPPA: I move:

That this Order of the Day be discharged.

Order of the Day discharged.

TRANSCONTINENTAL RAILWAY

Adjourned debate on motion of Hon. Diana Laidlaw:

That this Council calls upon the Commonwealth—

I. to comply with its obligations under terms of the Northern Territory Acceptance Act 1910 to construct, or cause to be constructed, the section of the transcontinental railway between Alice Springs and Darwin; and

II. to commence forthwith the survey of the remaining 300km of the line from Alice Springs to Darwin that was not completed by Australian National in the early 1980s.

(Continued from 28 April. Page 2100.)

The Hon. R.R. ROBERTS: The Government supports the thrust of this motion but I will move an amendment which we believe will improve it. I move:

The words 'to honour the promise made by the Prime Minister' be inserted at the beginning of paragraph 11; and that a new paragraph be added as follows:

III. to actively pursue commercial proposals following the completion of survey work, and reaffirm recent undertakings to facilitate approval and construction and provide investment support for financially viable proposals.

The motion as originally moved seeks to maintain pressure on the Federal Government, following commitments made during the recent Federal election, to fulfil its obligations in relation to railways between Alice Springs and Darwin—obligations arising from the Northern Territory Acceptance Act 1910 and the Railways Standardisation Act (South Australia) Agreement 1949.

The South Australian Government supports this course of action. Members in this place will be aware of many public statements by the State Government regarding this rail project, a project of national importance which we believe would be of significant benefit to this country as a whole. Consequently, we argue that the original motion does not go far enough. The amendment I have moved does not alter the thrust of the original motion and is designed to incorporate a direct reference to the Prime Minister's election promise and to encourage the Federal Government to pursue its important initiative beyond the mere completion of survey work.

The Federal Government has told the Northern Territory Government that it would welcome any commercially viable proposal and, should this eventuate, it would actively facilitate its approval and construction. The Prime Minister's statement on 10 March 1993 in fact goes beyond this, signalling support for such an investment through infrastructure bonds attracting concessional taxation—a form of capital incentive strongly advocated in the past, among other things, by the South Australian Government.

Today commercial proposals have not been forthcoming. Part of the difficulty has been in arriving at accurate figures for the cost of the building of the rail link. The Federal Government has said it is happy to fund the remaining surveying so that the commercial viability of the future proposals can be more accurately ascertained. The exercise should not stop there. There is an obligation on the part of the Federal Government to ensure that this substantial investment is not wasted. The Commonwealth has a duty to actively pursue commercial proposals following the completion of survey work. That is what my amendment seeks to put clearly on the record.

In moving her motion the Hon. Ms Laidlaw has comprehensively outlined much of the history of this project and the varying conclusions drawn by a number of feasibility studies. She correctly refers to the difficulties that the project's proponents have in making the figures stack up and the dilemmas created by the fact that many of the positive results generated by the rail link are external to the railway project itself and tend to produce a commercial rate of return which is not sufficient to interest the majority of private sector investors. These externalities include savings in resource use costs flowing from the transfer of freight from road to rail, strategic defence servicing and enhancing trade with Asia.

This brings us back to the need for significant financial incentives and/or a substantial part of the project being funded by the public sector, implicitly the Commonwealth, and the need for the Commonwealth (and for that matter the Northern Territory Government) to actively identify and target appropriate potential investors, that is, those who would be prepared to wait for a substantial period prior to achieving the desired return on investment.

In her contribution, the honourable member opposite has referred to several legislative milestones: the 1910 Northern Territory Acceptance Act, the 1949 Railways Standardisation Agreement Act and 1973 amendments to the Northern Territory Acceptance Act. She then focuses on the past 20 years, concludes the Commonwealth has not honoured its obligations to the State and implies that this is a poor reflection on the State's politicians. This begs the question of how successful the State's politicians were in the period from the earlier 1949 milestone, a period during which conservative Governments held sway at both the Federal and State levels.

Premier Playford was no more successful than anybody else. He did, however, test the 1910 legislation in the High Court. The Northern Territory Acceptance Act 1910 does place an obligation on the Federal Government to construct, or cause to be constructed, a railway between the South Australian border and Darwin. However, the Act does not specify when the line should be constructed. The High Court's determination was that the requirement, because it was not time specific, was indeterminant and could not be enforced.

I wish also to set the record straight in relation to the Fraser and Hawke Federal Governments. The honourable member opposite, in her contribution, attempts to perpetuate the myth that in some way Labor Governments are opposed to or have frustrated this initiative and that Liberal Governments have supported it. Nothing is further from the truth. It is true that the Fraser Government promised to build the Alice Springs to Darwin railway, but it qualified that undertaking with a range of conditions. That promise was never delivered and evidence found within the Federal bureaucracy when the Hawke Labor Government took office in 1983 indicated that, had Malcolm Fraser been re-elected, the project would not have gone ahead.

At that stage the Hawke Government could have abandoned it but it did not. Instead, it commissioned the Hill inquiry, which did not support the rail link, but was equivocal in its findings. Despite those findings, the Hawke Government made an offer. It said, 'We are prepared to implement this project, provided the Northern Territory is prepared to make a contribution.' This golden opportunity was rejected out of hand by the then Liberal Country Party Government in the Northern Territory—for the sake of a contribution which was much less than the one made to Yulara and the casinos in Alice Springs and Darwin and which by today's values would have been a modest one. And so, because of the obstinacy of that Government, the rail link is not in operation today.

While on this subject, it is interesting to note who has been responsible for the great railway developments in this country. Were they accomplished by conservative Governments? Of course the answer is 'No'. The Trans-Australian railway, the Adelaide to Alice Springs rail link, the commencement of the Darling-Southwood line, and the formation of the Australian National and the National Rail Corporation were all done under Federal Labor Governments. It was the Whitlam Government that conceived a national railway network that would unify the gauges around the country. That national vision was strongly supported by the Labor Governments in South Australia and Tasmania which cooperated with the Federal Labor Government in trying to create an efficient national network. It was the then Liberal Governments of Victoria, New South Wales, Western Australia and Queensland which vetoed that initiative and scuttled the massive capital investment planned by the Whitlam Government in the 1970s. We have had to wait until the Keating Government's One Nation commitment to see this vision progress.

That now brings me to more recent State Government efforts in support of this project. It is appropriate that these matters be placed on the record. The South Australian Government forwarded a major submission to the Hill inquiry which was jointly prepared by the Chamber of Commerce and Industry and the United Trades and Labour Council. In November 1983, the then Premier appeared in person before the inquiry to present the submission. Since that time, the South Australian Government has played a major role in trying to turn the Commonwealth's view around on this matter and can be credited in no small way for keeping this project alive.

Most recently, the South Australian Government joined forces with the Northern Territory to support the United States based Morrison Knudsen Corporation's efforts to prepare a detailed business plan involving private sector financing of the line. I especially draw the Council's attention to the assistance that this State Government has offered to the current Northern Territory Government by way of technical help with feasibility studies and the like. This assistance was publicly acknowledged in February this year by the Chief Minister of the Northern Territory during his efforts to focus attention on the rail link.

While most clearly the running of this project must be driven from the Northern Territory, the South Australian Government has pressed and continues to press the Commonwealth to fulfil its 1910 pledge to construct the rail link.

Finally, I wish to refer briefly to the two members in another place, the members for Stuart and Whyalla, whose interests in railways have been well documented in this Parliament, along with myself and Mayors in Port Pixie. We have worked tirelessly in enlisting the support of the local communities and lobbying for the project at the Federal level.

Some of the things that are occurring in the Iron Triangle which would link into this particular project are the developments at Port Bonython and the initiative taken by the South Australian Government in trying to attract incentives in the development of petro-chemical industries, and I would note that only a fortnight ago the Port Pixie Development Board in consultation with State Development and the Port Pixie City Council signed a statement of understanding with an Indonesian firm, the Bimantara Group, to build containers at Port Pixie. This would obviously enhance railway operations in the transport industry in that growing area.

It is anticipated that there will be a net positive economic impact on South Australia. Rail transport activity in this State will increase and in the short term South Australian companies are likely to gain from the construction of the rail link. During the construction phase the northern cities of Whyalla, Port Augusta, and Port Pixie can expect significant benefits. It has been estimated that up to half of the project construction expenditure would be sourced from within South Australia. I refer here to opportunities for rail production at BHP Whyalla and sleeper supply via the Monier Port Augusta plant. South Australia will benefit from improved transport links to the Northern Territory and more importantly South Australia and Australia will benefit from the rapidly expanding markets in South-East Asia, particularly Indonesia. With those comments, I ask the Council to support my amendment.

The Hon. BERNICE PFITZNER secured the adjournment of the debate.

FISHING, SCALE

Orders of the Day, Private Business, No. 6: Hon. M.S. Feleppa to move:

That the Regulations under the Fisheries Act 1982 concerning Transfer of Licence (Marine Scalefish Fishery), made on 17 December 1992 and laid on the table of this Council on 9 February 1993, be disallowed.

The Hon. M.S. FELEPPA: I move:

That this Order of the Day be discharged.

Order of the Day discharged.

CRAIGBURN FARM

Adjourned debate on motion of Hon. M.J. Elliott:

That this Council—

1. strongly urges the Minister of Housing, Urban Development and Local Government Relations to amend the supplementary development plan in relation to Craigburn Farm;

2. strongly urges the Minister of Housing, Urban Development and Local Government Relations to accede to the advice of the Environment, Resources and Development Committee that there be a 90 day consultation period to explore alternative development options; and

3. notes the inappropriate handling of the Craigburn supplementary development plan by the Government until this time.

(Continued from 31 March. Page 1810.)

The Hon. PETER DUNN: In supporting this motion I wish to make a few comments. This motion is really a response by the Hon. Michael Elliott to the Environment, Resources and Development Committee's letter to the Minister. That committee asked the Minister, who is totally in charge of this supplementary development plan for the Craigburn estate, to principally have a cooling off period of 90 days within which the council, the local people and the Government itself could explore some alternative methods.

It was interesting to note that the local residents endeavoured to raise money to buy some of the area, but we really cut them short because they did not have enough time to explore that. Because the whole of the supplementary development plan had an interim effect put on it, it meant that it did not see the light of day and did not have public exposure to the extent that would normally be expected. As a result, there was quite a lot of hostility. The councils involved in this were certainly unhappy, and they had every right to be so.

To be quite honest, Mitcham council could have put this supplementary development plan to the test because the whole of the development in that plan was in its district council. The total area which is to be open space is in the Happy Valley district council and is not included in the Mitcham council area. Mitcham council is the only council that has anything to do with the development of that project. The Government was a bit brash in putting forward its proposition to put in a supplementary development plan on the basis that it involved two district councils. However, that being the case, our committee looked at it and decided in retrospect to ask for a cooling off period so that the local people, the council and the Government could explore a little further a solution to what was a difficult problem.

I admit the fact that the owners of the land had the right to develop it. They had bought it 30-odd years ago I suspect with the intention of developing it and because of that I think they had a right to proceed with that. However, much water has gone under the bridge since then, and there was an expectation from the community that there should be a lot of open space area. It is often referred to as part of the lungs of Adelaide. That is true. However, I believe they had the right to undertake some development on it, and court orders etc., over the period proved that that was correct. However, when the supplementary development plan was produced, it cut across what was expected by the community. We asked for a cooling off period—

The PRESIDENT: Order! The Hon. Mr Dunn, I understand that you might have spoken on this motion.

The Hon. Peter Dunn: I do not think so.

The PRESIDENT: We have it on the record that you have.

The Hon. T.G. Roberts: It sounds familiar to me, Peter!

The PRESIDENT: It has just been verified from the *Hansard* record that you have spoken on it and, having spoken on it once, you cannot have another chop.

The Hon. Peter Dunn: Well, it has been a good effort, Mr President. I apologise for doing that.

The PRESIDENT: I apologise for not realising sooner. The Hon. Mr Dunn cannot speak on it any further. Are there any other speakers?

The Hon. M.J. ELLIOTT: It is quite plain that the development plan in relation to Craigburn Farm is unsatisfactory. That point was made by the Standing Committee for Environment, Resources and Development, an all Party joint House committee. I would think the first part of the motion is beyond dispute. The second part calls on the Minister of Housing, Urban Development and Local Government Relations to ensure that a 90 day consultation period be provided to explore alternate development options, once again a recommendation of that all Party committee that was carried unanimously. One would think there would be no dispute with that. Finally, the third part notes the inappropriate handling of the Craigburn supplementary development plan by the Government until this time. The report of the committee indicates that it was handled extremely badly.

A couple of major points stand out. The first development plan, which was brought out to cover the councils of Happy Valley and Mitcham, was released without either council having any input. In fact, neither council had an awareness that there was an intention for a supplementary development plan to be brought out. There is no defence whatsoever for that action by the Government and the bureaucrats working for the Government.

Subsequent to that, the next major point at issue is in relation to giving that supplementary development plan interim effect. There was insufficient opportunity for further consultation in relation to the plan when it was given interim effect. It was plainly done because the Government had signed an indenture with the developer that had put time constraints on the Government. It had trapped itself by that device. It is impossible to understand how it allowed itself to get involved in such an indenture agreement which put the Government at financial risk. The important point about giving that supplementary development plan interim effect was that it allowed the developer within 24 hours to lodge an

application. Once that application was lodged, the whole of the development plan process was hijacked.

So, in relation to those major points and a number of smaller points, it is clear that the Craigburn Supplementary Development Plan was handled inappropriately. I believe that this Council should be sending a very strong message to the Government and the bureaucrats that that sort of behaviour is not acceptable. I urge members of the Council to support the motion.

Motion carried.

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 21 April. Page 1947.)

The Hon. BERNICE PFITZNER: In concluding the debate, I wish to thank the Hon. Mr Elliott for his consistent support for this disallowance and for his clear-mindedness which prevented bureaucrats from pulling the wool over the eyes of members of Parliament. Honourable members may recall that I concluded my earlier speech on this matter with a comment that I was speaking out as a voice in the wilderness. I realise, however, that I am not a lone voice. Fortunately, there are very many people in the community who, like myself, value South Australia's few environmental assets. There are also some who know the planning processes and who believe, as I do, that these recent changes to the regulations represent a real threat to these assets.

An article in the *Advertiser* of 28 April claimed that our politicians have abandoned the hills face zone. Furthermore, four key councils, Burnside, Mitcham, East Torrens and Willunga were, it would appear, opposed to the changes to these regulations. With the new regulations, these four councils are now less affected by the changes than are the other eight councils which are also involved in decision making in relation to the hills face zone. That is an inconsistency that not only will cause confusion to conservationists and developers but will possibly result in different planning decisions.

The article in the *Advertiser* on 28 April provided the basis of a Dorothy Dix question asked in the other place. The Minister of Housing, Urban Development and Local Government Relations responded with a number of bland and, in part, totally irrelevant comments. He claimed that the changes will not affect the policy rules but will affect only the administrative responsibility. It is true that these new regulations do not affect the substantive law or policy, but just who administers it. Be it a local or State authority, whoever is responsible for the planning administration will have a substantive effect on planning outcomes. The Minister did not address the question of what is likely to result from these changes.

I will focus only on the hills face zone and the Mount Lofty Ranges watershed, but I could just as easily focus on, for instance, the River Murray flood zone which is another of the State's environmental assets. An article published today in the *Payneham Messenger,* which is issued in the Payneham area, referred to this problem in an article on the front page entitled 'Hills Face of Change'. In the article, Ms Davison of the South Australian Conservation Council, which supports the disallowance, states:

> The hills face zone is the lungs of Adelaide, and the Government is washing its hands of the responsibility, and wants to give the councils the powers without giving them any rules or guidelines to follow.

It is true in part, but rules and guidelines have been given. What we have not been given, though, is strong, hard zoning which gives us mandatory guidelines rather than discretionary guidelines. The article refers to further comments made by Ms Davison as follows:

> But Ms Davison said even though applications would still have to be approved by the Planning Commission she feared the commission would just 'rubber stamp' them without investigating them further.

However, these applications only apply to a few prohibited developments. We can look at the other side of the argument which says that strict planning controls apply, and the article refers to comments made by Mr Smith from the Planning Commission as follows:

> ...provided controls over the hills face were clear it did not matter whether the Planning Commission or local council administered them. Either way, both the commission and the relevant council were required to agree on any plan.

That is true, but how often can the commission, after the council has agreed to approve of the plans, disapprove of such plans? It should be the State commission that has the first say on planning decisions. Mr Smith went on to say:

> ...having local councils administer the process would cut the commission's workload, as most of the applications were for minor extensions to existing homes.

Already the workload is done by the local council. There is little time spent by the commission in assessing whether or not these applications are permissible, and with an efficient staff it should take no time at all. As I said, at present most of the workload on these extensions is already carried out by local council. Finally, Mr Smith said:

> Last year the commission received 284 written applications from owners of hills face properties; 269 were approved and 15 were rejected.

I put it to you, Mr President, that there is every likelihood that these 15 applications will now, with the new changes, be approved, contrary to the provisions of the Development Plan.

I return to the matter of the hills face zone, where eight out of 12 councils are concerned that the council and not the State authority will be solely responsible for planning decisions on the vast majority of detached dwellings, on land excavation associated with these dwellings, on outbuildings or additions to buildings and on realignments of boundaries which do not result in an increase in the number of allotments.

These are all what we call consent-type developments, presuming that the detached dwelling is not multistoreyed. Council can, if it chooses, ignore the objectives and principles of the development control of the Development Plan as it relates to the hills face zone and allow dwellings or outbuildings to be sited in obtrusive

locations on ridge lines or close to the road on scenic routes. Local councils can allow dwellings to be built in locations where extensive clearance of remnant native vegetation is necessary to overcome fire hazards and where such clearance will destroy natural habitat for native birds and animals. Local councils can allow dwellings to be built in locations where extensive land excavation or landfill is required.

They can allow boundaries to be realigned such that dwellings might be sited in prominent and obtrusive locations which would not have been possible prior to realignment. Having myself served as a local government councillor, I know that councils are most reluctant to oppose or to refuse a consent type planning application when they realise that they may have to use ratepayers' money to defend their decision against an appeal by the applicant.

On the other hand, the State authority is in a much stronger position to recommend alternatives and less obtrusive and generally more appropriate outcomes for a given location. Furthermore, the State authority has the expertise and the experience to be able readily to defend its decisions if necessary in the appeals tribunal or the proposed Environment, Resources and Development Court.

In my view the State authority can succeed in continuing to protect this very important hills face zone and other areas of special State significance whereas councils, by their very composition, will regularly fail. Each inappropriate development or inappropriately sited development will create a precedence for the next similar application.

I would like to give an example of the sort of problems that can be created by the realignment of boundaries in the hills face zone. The Government knows that realignment of boundaries can be a problem since the Government only recently was party to what was called a land management agreement designed to prevent this very problem.

The situation arose when one smallish low lying allotment in the hills face zone was subdivided into six residential-type allotments. With this subdivision there was considerable concern within the community and in the relevant local council that realignment of boundaries seemed likely to occur at a later date, so allowing residential development to occur higher up the hills face in prominent, highly visible locations, or in areas currently occupied by remnant native vegetation.

The Government entered into land management agreements in an endeavour to ensure that such a realignment of boundaries could not occur in the future. However, such land management agreements have never been tested in court, and there is a body of informed opinion which doubts whether they will be legally valid when they are tested. Come the time it is doubtful whether many councils will be prepared to contest the issue in court. Does this Council really expect councils to use ratepayers' money to defend State and national assets?

I turn now to proposals for what we call prohibited developments after the changes to the regulations. Take, for example, multiple storey developments which are designed as prohibited developments in the hills face zone: if a given council regularly approves such development proposals, it will be extremely difficult for the State authority consistently to refuse to concur. Such a refusal by the State Government will be seen and regarded as a perverse opposition to the presumed better local knowledge of council. Once again, each relaxation in planning principles will create a precedent for the next similar proposal. The outcome will be a relentless progression to total relaxation of all worthwhile controls.

I would like to comment on the changes to the regulations as they will relate to the Mount Lofty Ranges watershed. The local council, and not the State authority, will be solely responsible now for the realignment of boundaries and primarily responsible for divisions of land where two habitable dwellings are situated on a single allotment. Although in this latter situation the subdivision of land is designated as prohibited development the State authority will find it extremely difficult consistently to refuse to concur with council's decision to approve the subdivision.

Inappropriate realignment of boundaries can lead to further pollution of the water catchment, and any subdivision of land will, in time, result in more intensive residential development which all experts tell us is disastrous in the watershed. It must be asked whether there exists a satisfactory definition in planning terms of habitable dwelling. Can a farm out-building be converted into an habitable dwelling?

Some councils allow new dwellings to be built on watershed allotments without prior or associated removal of an existing dwelling, as long as the old dwelling has certain fixtures removed. Might it not be possible for another group of councillors, at a later date, to rule that there are really two habitable dwellings now on this allotment and so move to support an application to subdivide the allotment? Each property that is subdivided will, in turn, undergo further development, and each subdivision of property will create a psychological precedent for the next similar proposal.

When progressive erosion occurs in these areas of special State significance, we will not be able to blame the bureaucrats who have hoodwinked us. We will not be able to blame the councils because we know how they operate and how their elected representatives function in practice.

We will not be able to blame the Local Government Association, because it probably believes that local government can do the job better than a State authority. We will not be able to blame any regional authorities which may be created, heaven forbid, in the future. No; we will have only ourselves to blame.

One of our roles in this Upper House should be to identify legislative changes which will result in outcomes which are not in the best interests of, or not popular with, the community as a whole. These changes to the Planning Act regulations will result in outcomes which are not popular and which will benefit very few. They will benefit a few developers and the planners and planning lawyers. It seems to me that these few have influenced the planning bureaucrats, who in turn have misled the majority of politicians of South Australia. It is a great shame that we in this Council have so little vision and are so easily hoodwinked.

I know that this motion will not be supported by the majority in this Council, but it will be supported by

those who know and care that this beautiful State of ours is only in stewardship for us to pass onto the next generation in a condition equal to, or improved upon, that received. It is a sad day that this motion for disallowance of the regulations made under the Planning Act concerning development controls will not be supported now. Only time will tell. I further urge that the motion be supported.

The Council divided on the motion:

Ayes (4)—The Hons J.C. Burdett, M.J. Elliott, I. Gilfillan, Bernice Pfitzner (teller).

Noes (13)—The Hons Peter Dunn, M.S. Feleppa, K.T. Griffin, J.C. Irwin, R.I. Lucas, Carolyn Pickles, R.J. Rison, R.R. Roberts, T.G. Roberts, J.F. Stefani, C.J. Sumner (teller) G. Weatherill, Barbara Wiese.

Majority of 9 for the Noes.

Motion thus negatived.

SENIOR SECONDARY ASSESSMENT BOARD

Adjourned debate on motion of Hon. R.I. Lucas:

That the regulations made under the Freedom of Information Act 1991 concerning exempt agency—Senior Secondary Assessment Board—revocation and replacement, made on 21 January 1993, and laid on the table of this Council on 9 February 1993, be disallowed.

(Continued from 3 March. Page 1386.)

The Hon. T.G. ROBERTS: I oppose the motion. I remind honourable members of the history of the issue involved with the Freedom of Information Act and the approaches by Channel 7 to make a request, through SSABSA, to get a list of the top 250 students in South Australia in accordance with the 1991 year 12 results.

The basis for the exemption and the intention of the legislation fit quite comfortably. I should like to quote *fr*om *Hansard* the comments that were made by the Attorney-General at the time that the amendments were moved in this place in February 1991. He indicated:

(1) The individual has a right to know what information is contained in Government records about himself or herself;

(2) A Government that is open to public scrutiny is more accountable to the people who elect it;

(3) Where people are informed about Government policies, they are more likely to become involved in policy making and in Government itself.

In terms of the principles outlined, the application, under freedom of information, for the top 250 students does not fall into any of those categories. The preservation of the individual's rights under that would probably be breached. My private view is that if individuals want to release the results of their examinations at year 12, or at any level, it is up to them. The Attorney-General went on to say:

A number of rights and obligations are established. These are:

(1) A legally enforceable right of access to documents in the possession of Government.

(2) A right to amend inaccurate personal records held by Government.

(3) A right to challenge administrative decisions to refuse access to documents in the courts.

(4) An obligation on Government agencies to publish a wide range of material about their organisation, functions, categories of documents they hold, internal rules and information on how access is to be obtained to agency documents.

The application fits none of those criteria. The Attorney-General then said:

The rights conferred are not, of course, absolute. They are moderated by the presence of certain exemptions designed to protect public interests including the Cabinet process, the economy of the State and the personal and commercial affairs of persons providing information to, and dealing with, the Government.

Those comments were made by the Attorney-General in February 1991 when moving amendments to the Freedom of Information Bill. Of course, the board has a strong policy of not providing comparative school data, while the Freedom of Information Act, schedule 1, section 16, does not protect the security of information and papers and the confidentiality of markers, etc.; it does not prevent the disclosure of comparative school data. The protection of section 16 is framed in terms of disclosure, having a substantial effect on the effect of performance by an agency, of the agency's functions, and would on balance be contrary to public interest.

SSABSA's view is that such disclosure does not adversely affect the board's function, but will adversely affect the functions of schools and the various education systems. I would have thought that the Hon. Mr Lucas, being the shadow Minister of Education, Employment and Training, might be able to gauge that when making his contribution in this Council supporting the motion as he did. The arguments put forward by the honourable member were contrary, not only to what would be regarded as making assessments that have no relevance in relation to matching criteria for matching scores against educational performance, but would also, I think, unless matched against the wishes of those individuals who were being assessed by the top 50 and making it a very public document, challenge some of the theories and views held by educationalists in relation to what effect that information would have in the public arena.

The honourable member went on to raise a very spurious argument about a school in the northern suburbs that had a teacher—a physics teacher—who in year 12 had five merit students, that is, students achieving 20 out of 20 in physics in his class of 1991, and that the results that he achieved were exceptional and that the public had a right to know exactly what that schoolteacher's record was and exactly what that school's record was. He went on to say, 'Why should that information not be made known to potential students of parents in the northern suburbs7' I guess the department, the board and a lot of people associated with education would see that as a very spurious argument indeed, and an acceptable way of measuring whether a school is a successful school or not is not generally to pick out the top six students in a particular school or have lists of the top 10, if you like, of schools in any particular area, because the nature and results of schools change from time to time, reputations can be easily gained and easily lost; some schools have reputations they do not deserve in both categories (being good schools or in some cases being bad schools). It is just that reputations can be carried on the lips of people and the circumstances change by which schools are measured; in some cases schools that get reputations for

being bad schools can change within 12 months, even within six months.

It is the same with reputations for good schools: they can change with the change of formation of teachers; the change of formation of curricula; the change of formation of services that might be provided by that school. Suddenly money is spent on schools that have little or no play areas or recreational areas, and those schools develop better reputations. Some schools develop reputations as a result of the behaviour of a small number of either very good students or a small number of very bad students who in some cases set good examples and good tenures or bad examples and bad tenures.

It would be ludicrous to suggest that a top 10 rating, either by channel 7 or anybody else in the public sector, would bring any help at all to parents in making an assessment of where to send their children, as the people may have got the wonderful results for that school (or, in the case of the school raised by the Hon. Mr Lucas, the physics teacher), say, in late January. By the time the registration came about and the new teachers' list for responsibilities in that school was made available, that teacher may have shifted.

So, what do the children do? Do they hop on another bus and follow that teacher around? The other danger is that if a promotional or a glamour aspect starts to occur because of the results of a top 10, you could have parents unnecessarily moving students from school to school to try to achieve the same results as the children in that previous class received with that teacher. In a lot of cases it is just a combination of good teaching, good students and academic results that comes from a lot of matching criteria that may not be matched with a new set of students in the new term. Class sizes would rise unnecessarily and, in a lot of cases, when class sizes rise the results that may have been achieved in a small class, for instance, may not be achievable in that larger class.

So, there are a lot of dangers in any group or organisation or media outlet beating up a top 10 or a hit parade of schools that achieve outstanding results. Those results have to be matched over a long period. Assessment of a school's results needs to be done by talking to a lot of people at all levels: talking to students, talking to school committees, talking to teachers in those schools, talking to headmasters and talking to people inside the Education Department, for example.

The criteria whereby the board rejected the idea of comparison factors had a series of objections to making assessments on secondary schools in order to gauge the levels of success in any sort of rating system. It is the board's view that you have to look at level of teachers, expertise and commitment, student ability and motivation, and student selection procedures. It is well known that many schools are very selective about which students they will take and which subjects they teach. You must consider availability of out-of-school as well as in-school resources; and family circumstances and ethos of parents and the siblings who have been involved in higher education. If parents or other siblings are involved in higher education they tend to pass on that culture within a home, so it tends to pass on down to other children. Are school policies towards year 12 aimed at extending all students, or do they focus on devoting most resources to the most capable? There is the extent to which schools expect students in year 12 to provide leadership for the more junior students and participate in extra-curricula studies. Both of these can take time away from formal study. Some schools concentrate more on sport, recreation and leisure. Some schools aim for an all-round measured approach to education—education for life—and others have an academic focus.

Some children do not take part in any sport at all yet are able to concentrate all their activities into academic education. They tend to achieve better results than those who mix sport and recreation with studies—and I will not make a value judgment on which comes out the best. If you changed the emphasis from an all-round education and health program through leisure and sport to a pure academic program (one based on results), I am sure that school boards and headmasters would try to achieve that to try to get into the top 10. That is something that I would not encourage.

At this stage the board makes services available to students and the public: it is not a closed, secret society. Already it puts together full individual results for disclosure. If you read school reports at the end of the year, a lot of information can be gleaned from them. If you are a responsible parent wanting to check or gauge the effectiveness of the school to educate your child, I am sure you can get it from the material that the schools put out and by talking to the teachers.

Most of the board's responsibilities allow for clerical checks of students' results; candidate records for each subject taken by students; annual report and statistics on subject achievements; handbook and policies; curriculum documents (syllabuses and frameworks); information brochures; board, committee and subcommittee meetings and the public consultations as required (that is, forthcoming discussion papers); research, evaluation and monitoring of syllabus outcomes; national projects (that is, equity in senior secondary school); assessment projects; research monographs (that is, girls and year 12 science examinations); Unlock Your Future course and careers program and vocation counselling program; and continuous servicing of over-the-counter/shop inquiries.

So, members can see that it is not some sort of secret society. Secondary schools provide a lot of information so that parents can make an assessment of the potential that any school has to educate their child. I think it is irresponsible in the extreme to build up hope in people's minds that some schools may be able to offer their children a better education. Such a conclusion would be based on very shallow evaluation. Some media outlets could be accused of developing a sort of hysteria in suburban regions in an effort to sell papers by attracting attention not to the education system itself—its strengths and its weaknesses—but to themselves.

The difficulty that the board and the Education Department have is that if schools are made fashionable overnight by irrational criteria it can present problems to registration boards in drawing up teacher lists. It can have the effect, in some regions, of some schools being over-crowded and others being less crowded—and this on the whim of some people trying to draw attention to a top 10 list. I encourage the honourable member to make a deeper and more detailed analysis of how you rate a

school rather than do it on the shallowness of an individual teacher or a single year's results.

Most teachers will tell you that, in the time they spend at schools, the standard of teaching varies from teacher to teacher and that a school's inner feeling is often different in that some schools have a very good feeling in their staff rooms and it is a pleasure to walk into them, whereas at other schools the staff rooms are tense and tight. Hopefully the principle by which the Government evolves its education policies will bring about a climate whereby each child in every school has the opportunity to maximise the benefits of the education that is made available to them at pre-school, primary or high school. In this way they can prepare themselves for life—which is the Government's policy—and put themselves on track for a career, whether that be purely academic or in the workplace; and thereby the options that are spread out in front of each child are maximised by each school offering the best possible choice for those children to be able to do that.

The other problem that a top 10 list brings about is that a lot of soul-searching goes on with regard to whether people should send their children to independent or Government schools. When times are tough and money is tight a lot of people look to send their children to good Government schools, and they want accurate, updated information so as to make their assessment.

The Hon. R.I. Lucas: You're not going to give it to them.

The Hon. T.G. ROBERTS: It is not a matter of the Government not giving them information. I have just read out a high level of criteria by which you can determine a school's abilities and results. It is not necessary to know the academic details of the top 10 schools.

The Hon. R.I. Lucas: They are all excellent!

The Hon. T.G. ROBERTS: .I agree with the honourable member's interjection, that they are all excellent. I think most Government schools operate in South Australia at a very high level of competency and they provide a good all-round education. I think the department itself generally tries hard to prepare its students for life. I hope that the Hon. Mr Lucas does cooperate with the Government to bring about a good education climate in South Australia, by proffering constructive criticism to the Government if that is required. I would also like him to give accolades to the Government if it is seen to be producing good results in providing that all-round education for students. I oppose the motion.

The Hon. M.J. ELLIOTT: I oppose the motion. This motion does produce some conflicts—and you have the principle of freedom of information to start with. I think my record on this issue in this place is strong. Only the Hon. Mr Cameron, a former member of this place, would have taken a stronger position on that than I. Having taken the general principle, whenever one gets down to specific issues one has to ask the question, 'What are the consequences of a particular action?' There is no doubt that the consequences of the action of the release of league tables of schools will be destructive to education. That is not a view held by me alone. That is a view held by every person, and I mean every person, who has made contact with me on this issue. I have not had one individual come to me and say 'We want this FOI request to be granted.'

The Hon. R.I. Lucas: I have had all the letters from the teachers unions and all the interest groups.

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

The Hon. M.J. ELLIOTT: Among the groups that have come to speak with me has been the Association of Non-Government Education Employees (ANGEE), representing teachers in non-Government schools; I have seen the Institute of Teachers, representing teachers in Government schools; I have had approaches from leading private schools as well as from public schools. As I said, there was nobody at all from the public who came and expressed an opinion that what Mr Lucas was doing was a good thing for education. Many people came to me and said what Mr Lucas was doing was destructive for education.

Members interjecting:

The PRESIDENT: Order! The honourable Mr Elliott has the floor.

The Hon. M.J. ELLIOTT: The first important point is that there is absolutely no support, it seems, apart from Channel 7 and Channel 9, for this proposal from the Hon. Mr Lucas. However, there is no doubt that SSABSA—

Members interjecting:

The PRESIDENT: Order!

The Hon. M.J. ELLIOTT: I rather suspect I could probably get more sense from one of the yards out at the slaughterhouse than I get from the members on the Opposition benches.

Members interjecting:

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

The Hon. M.J. ELLIOTT: So, the Liberals are embarrassed by the ridiculous position they have taken on this matter and are bleating pathetically.

The Hon. R.I. Lucas: Where's your leader?

The Hon. M.J. ELLIOTT: You call a division and watch how he votes.

Members interjecting:

The PRESIDENT: Order!

The Hon. M.J. ELLIOTT: The SSABSA board does hold a great deal of information which is very useful to the public and I believe that there is a strong case for much of that being made available. I met with the SSABSA board, along with representatives of both the public and private sectors in education and their unions, and discussed the fact that SSABSA does hold a lot of information. While they all had a concern about the particular FOI request they also all acknowledged that SSABSA had a lot of information that would be usefully made available to the public. So, negotiations have been in train for some months now on this particular issue.

As an example of the sort of useful information that can be produced using SSABSA results, the SSABSA board itself produced an occasional paper looking at girls in science in PEZ. It was a very useful analysis to show the performance of girls versus boys in various science subjects over a number of years and looking at how they perform with different types of questions. From that

analysis useful information could be derived for people who are generally trying to progress education in South Australia.

The Hon. R.I. Lucas: Ask for the unreleased stuff, which they will not release, on the performance of girls and boys.

The Hon. M.J. ELLIOTT: You will find that information will become available. So among all of these groups that are interested in progress in education—

Members interjecting:

The PRESIDENT: Order!

The Hon. M.J. ELLIOTT: Among those groups that had a genuine interest in quality education in this State there were discussions about what information should be made available. The SSABSA board only met towards the end of last week and has now issued a statement as to what information will be made available publicly. They have committed themselves to it and it is a very extensive list of information.

The Hon. L.H. Davis: Are you saying that all those people you have met with agree with Lucas's motion?

The Hon. M.J. ELLIOTT: I am saying they do not agree with Lucas's motion. I have said that he is on his own—except for Channel 7 and Channel 9. Among those bits of information that will be made public will be an analysis of performance in both years of SACE, by way of gender, by way of region, whether or not they have English as a second language at home and by way of subjects studied. In fact, there is a quite extensive list. The important thing about this analysis is that it will give a great deal of guidance to South Australia as to how we can progress education. That is something that everybody believes is a good thing. As to the league ladder that the Hon. Mr Lucas seems to be promoting, all people with a legitimate interest in quality education dismiss it out of hand. There is no doubt about that whatsoever. They agree that what it does is give, firstly—

The Hon. R.I. Lucas: It gives them an idea of what a good school is.

The Hon. M.J. ELLIOTT: It gives them an idea of what is not a good school. One school will do better than another school simply on the basis that it has more students doing Years 11 and 12. If you have twice as many students doing it you have twice as many opportunities of having students who perform in any particular category, including the highest. If you have a school that offers scholarships to very good students from other schools, then what you are doing, effectively, is buying yourself a couple of good results, because the students are already proven performers. It has nothing whatsoever to do with whether or not the school is a good school. Some schools consciously go out and buy themselves their top students—no question about it. There is also no question that schools that do have the so-called good reputation will have the good students sent to them. Norwood High School was the top performing high school in the league ladder that was published—

The Hon. R.I. Lucas: Maybe it is a good school.

The Hon. M.J. ELLIOTT: It is a good school, as are many of the Government schools. But, indeed, the reason Norwood High School does so well is because, with its reputation, children are sent to it from all over from the metropolitan area. The students are not made better students necessarily because they went to Norwood High School. They are good students, coming from highly motivated families. They are motivated students and so Norwood High School, compared to other schools—

Members interjecting:

The PRESIDENT: Order! There is too much noise.

The Hon. M.J. ELLIOTT: So the Norwood High School, because of its reputation, will have a very large number, a very large cohort, of highly motivated students from families that have consistently over a long period of time given them a lot of support. Of course, as a consequence of that happening, it gets excellent results; it is a self-fulfilling prophecy. I have seen exactly the same thing happen in other schools. When I was living in Hazelwood Park I sent my children to Linden Park Primary, the nearest school. It had a reputation as being the best primary school in the State.

An honourable member interjecting:

The Hon. M.J. ELLIOTT: It has the reputation, I said. I shifted suburbs, to live in Hawthorndene, and I sent my children to the Belair Primary School, which does not have the same reputation but which to my mind is in fact a far better school. But if you took the two schools and ran—

Members interjecting:

The PRESIDENT: Order! There are far too many interjections on the Hon. Mr Elliott.

The Hon. M.J. ELLIOTT: As a former teacher I am certainly in a position to measure the performance of my children in the two schools, and I believe that my children are in fact performing far better academically in the school which does not have the big reputation.

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order!

The Hon. M.J. ELLIOTT: I also believe that my children—

The Hon. R.I. Lucas interjecting:

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

The Hon. R.I. Lucas interjecting:

The PRESIDENT: Order! The Hon. Mr Lucas must be deaf.

The Hon. M.J. ELLIOTT: No, the Hon. Mr Lucas is on a loser so he—

Members interjecting:

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

The Hon. M.J. ELLIOTT: The school that my children now attend is preparing them much better in terms of the variety of available sport, both inside and outside of school time. It is also preparing them better in terms of social development, yet if they were running a league ladder test on these two schools, the Linden Park school would probably beat the Belair school. There is a marginal difference in terms of the clientele, in that the children generally speaking at one school have better resources at home in terms of the support they receive in various ways. As I said, I am delighted and I believe there is no doubt that my children, who in a league ladder system would be told they are going to a worse school, are in fact going to a much better school. I am just speaking from personal experience, but that is the very point that many people are trying to make about where this league ladder will fall down. It falls down

because it does not measure anything other than raw scores to start with, and it does not also take into account why those raw scores are being produced. What the Hon. Mr Lucas is wanting to do is absolutely and positively destructive to education in South Australia, and there is no way known that I will have any part in that. I am very strongly opposed to the motion.

The Hon. I. GILFILLAN: I think that members, as I am, have been sitting in rapt admiration at the informed and intelligent assessment of the education system and the effect of information about SSABSA that has just been given by my colleague Mike Elliott. It is rare in this place that we are privileged—

Members interjecting:

The PRESIDENT: Order!

The Hon. I. GILFILLAN: It is rare for us to be so privileged to have a dissertation from a secondary school teacher of many years experience, a representative of the Democrats who is highly regarded in the education world, unchallenged as an admired and respected representative in this place on behalf of students, teachers and parents.

Members interjecting:

The PRESIDENT: Order!

The Hon. I. GILFILLAN: We have clearly established on any record that anyone wants to turn to, including legislation, questions and press releases, the strongest established reputation for freedom of information of any Party in this State, but there are times when one must be wary of pushing for a particular form of information to come out in a way which, on closer scrutiny, can be shown to be counterproductive to the better education of the children of this State. It is a pity that the Leader is now absenting himself from this Chamber, because it is quite important for him to understand that there are higher motives than just scratching for information for scurrilous purposes so there can be some sort of dramatic headline in a paper. The hallmark of the Democrats is that we deliberate rather than shoot from the hip. There is always time and wisdom in looking at the results of actions, and over time I admit that my earlier response was the quick, impulsive response that freedom of information in its own right must be justified and, of course, the media put a very slender—

Members interjecting:

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

The Hon. I. GILFILLAN: It is very difficult, Mr President, to believe that the Leader of the Opposition and his loud speaker, who is sitting on the back bench, have actually given any more than superficial thought to the effect of what they were first pushing for in January this year. The hallmark of what I believe is responsible, political activity is: consider the consequences of your actions. I have had the advantage of considering the consequences of the very narrow push—

Members interjecting:

The PRESIDENT: Order!

The Hon. I. GILFILLAN: —for information that was led by the Leader of the Opposition.

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order! The Hon. Mr Davis has had a fair go.

The Hon. R.I. Lucas interjecting:

The PRESIDENT: Order! It is getting very late in the session. I would hate to name anyone at this stage. The Hon. Mr Gilfillan.

The Hon. I. GILFILLAN: In any school that the Hon. Mr Davis or the Hon. Mr Lucas attended they would have been sent out into some sort of reconsideration compartment. In any case, as I recall it, the Leader is very much in favour of a dash of corporal punishment. I do not know whether the Black Rod is ever used for that sort of treatment!

Members interjecting:

The PRESIDENT: Order!

The Hon. I. GILFILLAN: My conclusion in assessing this position—

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order! The Hon. Mr Davis will come to order. I presume that manners were taught in the school.

The Hon. I. GILFILLAN: I have been assured by the Chair of the SSABSA board that it is of great concern that the information in the form that was pressed for, irresponsibly, by the Leader of the Opposition in this place—

Members interjecting:

The PRESIDENT: Order!

The Hon. I. GILFILLAN: I pushed for freedom of information from SSABSA, and SSABSA has responded to that by making available a profusion of information—

The Hon. R.I. Lucas: But nothing about schools.

The Hon. I. GILFILLAN: What is it about if it is not about schools, for heaven's sake? It is certainly not about racing.

Members interjecting:

The PRESIDENT: Order! The Hon. Mr Gilfillan has the floor. I would have thought that for some members going to school would have taught them a bit of politeness and that they would listen to members in silence. The Hon. Mr Gilfillan.

The Hon. I. GILFILLAN: Mr President, you will not have to be subjected to this inane baying for long. I have made my point. I have made it clear that I oppose the motion. I respect the assessment of people who know more about schools than I do or the Leader of the Opposition or the Hon. Legh Davis. We are novices in that area, whereas my colleague—

The Hon. T. G. Roberts interjecting:

The PRESIDENT: Order!

The Hon. I. GILFILLAN: —Mike Elliott, the Chairman of the SSABSA board and the principals of many schools who have approached me know the effect of a hasty, ill-considered demand such as the Leader put up. I have no hesitation and no embarrassment in saying that I will oppose the motion.

The PRESIDENT: I call the Hon. Mr Lucas. In closing the debate, he would I imagine, want to be heard in silence.

The Hon. R.I. LUCAS: No, not at all, Mr President. I welcome all interjections!

Members interjecting:

The PRESIDENT: Order! I want to hear him in silence. I ask the Council to respect the speaker who has the floor.

The Hon. R.I. LUCAS (Leader of the Opposition): That has to be the most painful backdown that I have ever heard in my 11 years in this Chamber. What it does is expose the Australian Democrats—

The Hon. I. GILFILLAN: On a point of order, Mr President, I would ask that you direct that the Leader does not point.

The PRESIDENT: Yes, I uphold the point of order. The Hon. Mr Lucas will address the Chair.

The Hon. R.I. LUCAS: This has exposed the Australian Democrats as headline seeking publicity hounds, sniffing out any particular story, grabbing a headline at the time and then, when it comes time to be counted, in this Chamber, for their actions and statements we have an appalling exhibition like this from the current Leader of the Australian Democrats—because quite clearly, just as we have seen John Coulter go down the gurgler, this is the first sign of the move against the Hon. Mr Gilfillan by the Hon. Mr Elliott, if he happens to be re-elected after the next election.

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: Let us look at what the shameless, publicity seeking, headline hunting Leader of the Australian Democrats said when this issue was raised on 15 January this year.

An honourable member: You wouldn't do that.

The Hon. R.I. LUCAS: I am pleased the Hon. Mr Roberts said that I would not do that, and I can only concur with his assessment. On 15 January the Democrat's South Australian parliamentary Leader, the Hon. Ian Gilfillan, said that he would support moves to block the exemption when Parliament resumed next month. Mr Gilfillan said that the Democrats had consistently resented the escape avenue that the Government had allowed itself to shift the awkward disclosure of information out of the freedom of information scope, and he called for a review of the Government's powers.

The Leader of the Australian Democrats was quite happy shamelessly to seek the headlines back in January when this issue was being run in the *Advertiser* and particularly on Channel 7 on the electronic media. There was no problem at all with the Leader of the Australian Democrats seeking that sort of publicity. All along, I have waited for the Democrats to express their view on this motion. It has been on the Notice Paper for many weeks now, and each week I have passed by the Hon. Ian Gilfillan and thanked him for his support on this motion and urged him to sit on his Democrat Deputy Leader, Whip and shadow Education Minister (Hon. Michael Elliott) also to support it. Having been shamed in this Chamber to stand up to try to explain himself, the Hon. Mr Gilfillan is now seen in the most painful exhibition that I have ever seen: this climb down from the principal position that he expressed back in January of this year.

The Hon. L.H. Davis: He lost his fight in the phone box.

The Hon. R.I. LUCAS: Yes. I cannot understand: if you have a one-all split in this Democrat Caucus in the telephone booth, I would have thought that, at the very least, the Leader ought to have the casting vote and prevail over his Deputy Leader in relation to an issue such as this. However, the Hon. Mr Elliott has sat, and humiliated, his Leader in this Chamber.

An honourable member: He has educated him.

The Hon. R.I. LUCAS: He has not educated him; he has humiliated his Leader in this Chamber, and the Hon. Mr Elliott knows, as I have indicated before, that should he be re-elected at the next election—which I sincerely hope the Democrats are not—this is the start of a move against the Hon. Mr Gilfillan for the leadership of the Australian Democrats in South Australia.

The other thing I want to indicate and expose is the absolute hypocrisy of this Party that we call the Australian Democrats in South Australia. They pontificate month after month and year after year about the Party that can vote according to its conscience. They say 'We are not like those other Parties—the Labor and the Liberal Parties. We are not like the Liberal and Labor Parties, which force their people to vote in a particular way. We in the Australia Democrats are the only Party where members can vote according to their conscience: what they believe in. We can stand up in this Chamber and vote in accordance with our conscience.'

An honourable member: When do they do that?

The Hon. R.I. LUCAS: They never do that. In the past six years there have been two or three occasions when the Australian Democrats have expressed a conscience vote on any issue, and I think one or two or them were actually procedural motions. One was a mistake when Mr Elliott did not know which side of the Chamber to go to; there was a mistake on a procedural motion. The arrant hypocrisy of this Party to state that they are the Party of conscience, that they can come in here and express a conscience vote on an issue, has been revealed in relation to this issue.

The Hon. M.J. Elliott: Why are you avoiding the issues?

The Hon. R.I. LUCAS: I am not avoiding the issues.

The Hon. M.J. Elliott: You are avoiding the issues, because you know you are wrong. You do this every time. You change the subject.

The Hon. R.I. LUCAS: As the Hon. Mr Keating said, 'I will do you slowly, Mr Elliott; I will do you slowly.'

The PRESIDENT: I ask the honourable member not to point.

The Hon. R.I. LUCAS: We have at the moment the Hon. Mr Gilfillan wanting to vote with us; that is the view which he expressed in January. He wants to vote with us. We know that, because he expressed his view in January. Others have spoken to the Hon. Mr Gilfillan, and they know that he wants to vote with us. His heart is with us. He wants to sit on our side of the Chamber on this issue, but he will not be allowed to do so because the Hon. Mr Elliott will not let him. He will not let him vote in accordance with his conscience and support this motion. That is the shame of the Australian Democrats, and that is the shame of the Hon. Mr Elliott and the Hon. Mr Gilfillan on this issue. Let me refer to some of the matters that the Hon. Mr Elliott has addressed. First,

the Hon. Mr Elliott very conveniently does not address this issue in its entirety at all. Rather, he seeks to highlight one aspect of the exemption, that is, the release of information on year 12 assessments in particular. That is all that the Hon. Mr Elliott talks about. However, he knows that this exemption turns SSABSA into a secret society.

We are not just talking about the release of information from schools. What we are saying is that this particular organisation will be turned into a secret society like all the others that have been exempted for, we accept, in some cases, very good reasons like the State Bank, for example, the courts, the police, etc. Everything in SSABSA is exempt from freedom of information legislation, not just what he likes to term the league table of schools because that is not all that the SSABSA does.

We have been pursuing for some time, and intended to pursue, quite a number of other issues—secret reports—that exist within the Senior Secondary Assessment Board of South Australia on a whole range of issues not relating to the release of information about year 12 assessment: cheating that goes on within assessment of years 11 and 12; the introduction of the new South Australian Certificate of Education and the quite damning reports that have been produced by schools, by teachers, by principals, and by others within the system about the problems with the introduction of the South Australian Certificate of Education; problems with the assessment at year 11 and 12; and views that various committees of the board have about the South Australian Certificate, about gender issues and about a whole range of other things like that.

What Mr Elliott, Mr Gilfillan and the Attorney are saying is that no-one can gain access to that sort of information because SSABSA is to be a secret society. We are not to gain access to that sort of information. So, it is convenient for the Hon. Mr Elliott only to address one particular aspect of this motion and that is this question of assessment of schools. But, of course, this is a typical argument and he seeks to ignore all the other information that members of Parliament—

The Hon. Peter Dunn interjecting:

The Hon. R.I. LUCAS: Well, that is probably the point; he is not aware of it. This is information that would be of interest to all other members of Parliament and to others that might have an interest in the operations of the board, the introduction of the South Australian Certificate of Education and other issues that relate to years 11 and 12 in our secondary schools. What Mr Elliott is saying, 'No, that is beyond bounds. No-one can have access to that information and we will support the Government in preventing the release of any information along those lines at all.'

The Hon. M.J. Elliott: And support all the schools.

The Hon. R.I. LUCAS: The schools are talking about this particular area. At the moment I am talking about everything else. Let me turn to that in a minute.

The Hon. M.J. Elliott interjecting:

The Hon. R.I. LUCAS: Well, Mr Elliott will not even address this issue, of course, because he has no response at all and has not addressed this particular aspect of the motion. So, as we know there are secret reports that exist within SSABSA, not in relation to performance of schools, and what Mr Elliott is saying to us is: 'No, SSABSA should not have to release that information and, no, we cannot have that information', even though it may well shed light on either the strengths or the failings of the senior secondary section of the education system in South Australia.

Let me turn then to the specific issue, the only issue, that the Hon. Mr Elliott has sought to address—and I might say the Hon. Mr Roberts, too, on behalf of the Minister in reading the Minister's prepared response—and that is this issue of what information should parents have about our schools here in South Australia. I am not surprised that all the interest groups within education, including the Institute of Teachers, other union associations, other educational interest groups and the vast majority of principals—Government and some, not as large a proportion but I do concede a good number of, principals in the non-government sector—share the view of a number of others that they do not want release of information that would indicate the relative performance of our schools here in South Australia. Obviously, that is not a view that I share and I intend to address some specific comment now to this particular information.

Can I say at the outset that I welcome the most recent decision made by the assessment board to release some information about year 11 and year 12 assessment.

The Hon. M.J. Elliott interjecting:

The Hon. R.I. LUCAS: No, some information. I acknowledge that it is a small step down the path for providing some information about years 11 and 12 in the general sense. The Hon. Mr Elliott and the Hon. Mr Roberts have not indicated this because it did not suit their argument. Let me quote from the SSABSA information that they released where they said they were going to release certain information but would not release any proposals that would 'avoid the provision of information which could be used to inappropriately compare and rank particular schools or school sectors'.

That is the phrase used by SSABSA and supported by the Hon. Mr Elliott. What it is saying is that no information will be provided to parents or students, and this is at a time when many adults are wanting to re-enter schools and choose the school that best suits them, that performs best in a particular subject or curriculum area or overall. They are investing a lot of time, effort and money in putting themselves through school again and they would like to make these sorts of assessments armed with relevant information.

But the information that is being released by SSABSA will not shed any light at all on relative school performance and, equally, of course, it will not shed any light on the relative performance of the Government school sector and the non-government school sector as well. I am sure it is immediately apparent to most members as to why, first, the State Government—the Labor Government, which has been in charge of our Government schools for the last 10 years—would not want to see that sort of information released to the public for parents and students to make their own decisions as to which school they would like to choose and to attend.

I acknowledge at the outset that, whilst the decision by SSABSA is one small step towards the path of providing more information, it is not school or sector specific.

Therefore, it is not sufficient, in the view of the Liberal Party, to provide information to parents and students.

I want to quote from an article in the *Adelaide Review* from that noted education expert, Giacomo Lasch, on this issue under the heading 'Top School'. Giacomo Lasch makes some important points which I want to place on the public record. He notes at the outset:

> Yet one cannot help feeling that the release of some further crucial information—which was not requested—might have assisted the media in a more accurate and balanced report.

I acknowledge at the outset, as I said in my first contribution, that I do not support the release of information solely in the form that was sought by Channel 7. 1 argued then, and will argue again this afternoon, that what ought to be released by SSABSA is a more broad based, balanced and informative relative measure of how our schools perform than the crude league table based on the top 250 students, supposedly, that was sought by Channel 7 and subsequently publicised. Mr Lasch obviously agrees with my view on that matter. Further on Mr Lasch says:

> Such additional information might have included the number of students attending in year 12 at the relevant schools, and the number of students pursuing 'matriculation studies'. SSABSA is in possession of both these statistics.

Again, that is a view that I support. It heads in the direction of providing more information than trying increasingly to hide that sort of information from public scrutiny. Mr Lasch quotes some interesting statistics. Further on in the article he says:

> It certainly does not take into account the number of students attending year 12 in the schools (as pointed out by the Principal of Pembroke School, Malcolm Lamb...) This happens to be approximately 300 in the case of Norwood (22 students in the top 250) and 230 in the case of Pembroke (19 in the top 250).
>
> Interestingly, some of the smaller girls' schools have an impressive tally, judged by this reasonable criterion. Wilderness (80 students in Year 12) achieved 10 in the top 250 of the State; and Walford (with 75 in Year 12) achieved eight. By contrast, the much larger Unley High School achieved just one place in the top 250 students.

Mr Lasch is saying that it is fair to indicate not just the number of students that a school might have in the top 250 (or, as I argue, perhaps the top 1 000), but how many students that school has in the year 12 classes. On that basis, Wilderness, with 12 out of 80 students in the top 250, has performed exceptionally well, whereas with respect to the performance of Norwood, which is still very good with 22 students in the top 250, one has to bear in mind that it has almost four times the number of year 12 students than Wilderness because it has 300 students in year 12. That is the sort of information that ought to be released. Mr Lasch goes on to say:

> ...the trend in Australia and overseas is towards more, not less, dissemination of information about schools and universities—and their relative performances.
>
> For example, there has been a complete revolution in the United Kingdom, where the national curriculum (in England and Wales) has built into it comprehensive provisions for assessment and reporting at key stages of student progress. The initiative has not been without its critics, but has been widely applauded by parents, in particular, as enhancing accountability and going some way to removing the pall of ignorance and apprehension about what is happening in schools.

It is being applauded by parents—but opposed by those involved in schools—as removing the pall of ignorance and apprehension. Mr Lasch goes on:

> In addition, there has been a serious attempt in England and Wales to analyse the performance of schools in the examinations at the end of secondary level. The method has been to use GCSE (General Certificate of Secondary Education, taken at age 16) as a datum point and then, using relatively sophisticated statistical approaches, to measure the value added by the time the same students take their A level examinations.
>
> SSABSA has acknowledged the significance of this approach in its advice to Channel 7, saying that 'the most effective schools are generally those which "take the students further" or add most "value" during the course of study of a student'.
>
> In these terms, it is quite likely that South Australia's most effective school will not be a State or independent school in the eastern suburbs, but one which, working with less promising potential, has achieved substantial improvement in achievement by students—although the latter may not occupy many places in the top 250 scores.
>
> It is likely that detailed analysis of the kind I have described will become the norm by the turn of the century. Reporting and accountability will be thorough and professionally sustainable, and schools will need to consider where academic emphasis fits into the overall pattern of their educational offering.

Mr Lasch concludes:

> At the very least, SSABSA should prepare itself more thoroughly for a release of information which will continue to be a matter of public interest, and access to which will be increasingly on the agenda of Governments, parents and students in Australia.

In a nutshell, that summarises the view that I put to this Council this afternoon: that is, the trend is inexorable. The community, Governments (whether Liberal or Labor eventually), parents and students are demanding accountability from the education system. We cannot go on spending over $1 000 million every year without being prepared to be accountable for that expenditure. We cannot deny parents and students the right to know how schools have performed over a whole variety of measures—not just the narrow measures that might have been released to Channel 7, but over a whole variety of measures—so that they can make informed decisions about the schools that they wish to attend. We have excellent schools in the Government and the non-government systems and we have poorly performing schools in both systems. Parents and students should be entitled to information on which they can make judgments as to which schools they would like to attend if they have a choice.

The argument ought not to be that of the educational troglodytes like the Hon. Susan Lenehan and the Hon. Mike Elliott which basically says, 'We will not release any of this sort of information.' It ought to be along the path that is occurring internationally where more and more information is to be released. I have already indicated to SSABSA that that will be the path that a Liberal Government will take with the Senior Secondary Assessment Board and assessment reporting in South Australia. It will be to commence work on preparing more and more information to be released publicly. If we can go down the path of the value added argument, which has been used and quoted by Mr Lasch and which occurs in other parts of the world, and we can measure

the relative improvement in performance of students from year 10 or 11 through to year 12, that will be terrific.

Let us release that information as well as the top 1 000 students and let us also release the information, which is already being published at the moment without the schools, on all the merit certificate students who achieve merit scores in year 12 in any particular year. As I indicated last time, those merit students might not be in the top 250 students. A student at Ceduna Area School, or wherever, with a merit score in both technical studies and home economics might bomb out badly in two or three other subjects and will therefore not be in the top 250. We should release information about the relative performance of students in those faculty areas and in schools like the Ceduna Area School. There is no reason why we should not publish that sort of information as well.

Again, I indicate my disappointment with the attitude of the Australian Democrats. I can understand the attitude of the Hon. Mr Elliott and the Government, but I am disappointed with the attitude and climb-down of the Hon. Mr Gilfillan. The direction in which we will take South Australian education will be as I have indicated. I urge members to strongly support this particular motion.

The Council divided on the motion:

Ayes (9)—The Hons J.C. Burdett, L.H. Davis, Peter Dunn, K.T. Griffin, J.C. Irwin, Diana Laidlaw, R.I. Lucas (teller), Bernice Pfitzner, R.J. Ritson.

Noes (10)—The Hons T. Crothers, M.J. Elliott, M.S. Feleppa, I. Gilfillan, Carolyn Pickles, R.R. Roberts, T.G. Roberts, C.J. Sumner(teller), G. Weatherill, Barbara Wiese.

Pair—Aye—The Hon. J.F. Stefani. No—The Hon. Anne Levy.

Majority of 1 for the Noes.

Motion thus negatived.

[Sitting suspended from 5.59 to 7.45 p.m.]

READY-MADE GLASSES

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

That the regulations made under the Optometrists Act 1920 concerning optometrists and optical dispensers, made on 25 June 1992 and laid on the table of this Council on 6 August 1992, be disallowed.

These regulations provide a number of disparate things, most of which are not controversial. An important non-controversial aspect of the regulations includes prescribed qualifications for optical dispensers. The controversial section is the timing of the imposition of standards for ready-made glasses. This part of the regulation makes the standard of such glasses Australian Standard 2228. Representations were made to the Legislative Review Committee by a major importer of such glasses, Womack Investments Pty Ltd. I hasten to add that this motion is my own personal motion and not that of the committee, which has taken no action in the matter.

The matter raised by Womack is that it is the major distributor of ready-made glasses in South Australia, the retailers being exclusively pharmacists which obviously are responsible retailers. The Womack company estimates that it has 70 per cent to 80 per cent of the market in South Australia. These regulations were made on 25 June 1992 and were to come into operation on the day on which the Opticians Act Amendment Act 1988 was to come into operation. Womack says that there was absolutely no warning whatever given to it of the making or coming into operation of these regulations.

It has no argument with the standard: it agrees that it is a reasonable standard. But, at the date the regulations were made and at the date they came into effect Womack had legally sold large stocks of glasses to pharmacists for retail, without any knowledge of this and had acted perfectly correctly at that time (and I will come to values later). Womack has acted very ethically. It is not concerned about glasses still on its own shelves which it can dispose of interstate where no such standards apply. Everywhere I have been overseas, there are no standards for ready-made glasses and they are available not only at pharmacies, where some ethical principles apply, but at supermarkets—in fact, the glasses I am wearing now I bought at an airport in New York.

Womack is not complaining about the standard being fixed or the standard itself. It has raised the matter that it purchased this stock legally and before any standard was imposed with no warning or consultation. Its concern is on behalf of about 300 pharmacies to which it has sold glasses and which have its stock on its shelves. I emphasise that some of the stock is complying with the standard and some is not; but which is which can only be determined by taking the stock off the shelves and testing it individually. If this motion is carried and the regulation disallowed, Womack intends to take the stock back from the pharmacies and give them credit, but at the present time it cannot carry the loss which this would impose (and I will come to the matter of money in a moment). It only seeks time to enable its retailers to dispose of the stocks—stocks which had been reasonably and legally acquired.

When the matter came before the Legislative Review Committee the help of the Minister was sought straightaway, and I must say that the Minister was sympathetic and has been most reasonable. I make no complaints about the Minister whatever. In fact, although the regulations are now in force and these stocks are still being sold the matter has not been finalised, and this was. clearly through the cooperation of the Minister.

Last night the Minister informed me that the Optometrists Board wanted action taken now, and he referred to the fact that any new regulations extending the time would have to be made on the recommendation of the Optometrists Board; that he was not free to act by himself. He said that he had no option but to take no further action.

I accepted that, but said that in that case I also had no option but to proceed with my disallowance motion, which has been on the Notice Paper for some time. It is true that the regulations deal with other matters, but that has been the case ever since the regulations were made, and the Minister has had the opportunity to bring in new regulations to extend the time for compliance and to provide for the other matters.

I point out that, because of our procedures for subordinate legislation, regulations cannot be amended,

nor can any one regulation in a set of regulations be disallowed. This is a matter about which I have often complained, but it is the situation. I hope that it is remedied at some time. I also point out that new regulations can be put in place as soon as the procedures can be complied with and, if desired, two sets of regulations can be made separating the standards regulations from the rest of the regulations, including those about optical prescriptions and so on.

I have no argument with those other regulations. If these present regulations are disallowed, the sky will not fall in on the Optometrists Board. New regulations can be made as soon as they want to, and they can be separated from the present regulations about which I am complaining, namely, in regard to ready made glasses, if that is the Minister's wish.

The Minister sought reasons why the committee considered that more time was needed. The committee sought evidence from Womack, and this evidence was tabled and made available to the Minister. I read to the representatives of Womak a portion of the Minister's letter dated 10 March, and this is incorporated in the evidence which has been tabled, so it is public knowledge. In that letter, the Minister stated the following:

It is not clear from the company's submission as to what the basis for the suggested extended date of 31 December 1993 is. The company had previously suggested 30 June 1993, which was almost 12 months after gazettal of the regulations and, as I mentioned in my earlier correspondence, some of the criteria had been available in the Act since May 1988.

But that was not the standards. The letter continues:

If the rate of sale previously predicted has not been achieved, even with the Christmas sales period intervening, it does raise the question of whether further extensions will have the outcome the company needs. I would therefore be interested in receiving more information as to the basis for the suggested 31 December 1993 date.

Some of what the Minister said in his letter is a little strange. He was expecting that the industry would achieve greater sales in the Christmas period. Well, for ready made spectacles, of course it will not.

The Hon. T.G. Roberts: I have always wanted a pair for Christmas!

The Hon. J.C. BURDETT: If you need spectacles, you will buy them. If you do not need them, you will not buy them at Christmas time. In fact, it was suggested that the sales lessened somewhat during that period because people were buying other things. Mr Meaney, one of Womack's representatives, said at the invitation of the Presiding Member:

We would like to thank the committee for the opportunity to present our case. This is probably an adequate way in which to do so. It is important to stress that we are talking not about stock which is held in our warehouse but about stock which is held at retail level. Mr Burdett brought to our attention the letter from the Minister of Health in respect of the change of time span that our company has suggested is required to clear the existing stock. As from 1 November, all the stock that we have been selling complies with the Act. So, from 1 November until the time we wrote that last submission to this committee, all the stock that left our warehouse complied with the requirements of the regulations, that is, they complied to Australian Standard 2228.

I continue to read from the evidence (and members must remember that this has been tabled, so it is public property) as follows:

Prior to that date, we were supplying stock that may or may not have complied with that standard. We randomly tested stock that we bought prior to that date which was already glazed overseas. We found that a proportion of the stock, depending upon the dioptre strength, did not comply with that regulation standard 2228. I hope this is not too confusing. So, we did a survey of our stockists as explained in that previous submission to the committee and found that about 70 per cent of the stock held by stockists was sold by us prior to 1 November. So, obviously a significant amount of our stock which was glazed overseas and which may or may not have complied with the standard is still being held by pharmacies.

When we extrapolated out the time required to move that stock through the pharmacy, and it can only be a guesstimate, it appeared that our original time span, 30 June this year, was incorrect, and that more stock was held at retail level than we were originally aware of. About 70 per cent of it was purchased already glazed overseas, and it may or may not have complied with the regulations. That is basically the reason why we have asked for that extension of time, because we as a company were unable to accept the stock back from our stockists in total and give them a credit on it. It is beyond the financial capacity of the company to do that.

As we pointed out in that earlier submission, when the regulations were changed so that no lens with a dioptre of greater than three could be sold by outlets other than optometrists, we volunteered to take back all the 3.5 dioptre stock from the stockists. That placed a not insignificant financial burden on the company then. But to actually take back all the remaining stock that was purchased prior to 1 November is certainly beyond this company's capacity. So, the loss, if any, would be borne by the retailers. Out of fairness they bought the stock in good faith, as we did in our turn, and not being aware of the proposed changes to the regulations—

and that is the important point, Mr President—

we felt it fair to seek from the committee that extension of time.

Perhaps a further point that I will state is the question of the amount of money involved. The witness said:

It is somewhere around the order of $250 000.

That is what had been put in the submission. He did say that it may be less now because it is impossible to obtain from the pharmacists, the retailers, the amounts from week to week. I suggest that that is a very substantial sum of money, and this company has been ethical. It is not worried about its own stock but is concerned on behalf of its retailers and is prepared to take back what it can be expected to take back.

It is obvious that Womack would not know from week to week the amount of stock on pharmacists' shelves. Womack has said that it is prepared to carry the loss, but in the present economic climate $250 000 is a big loss to bear. Womack has submitted that in early August all its stockists were contacted by telephone and advised to remove from sale any reading glasses with a dioptre greater than plus 3 and to hold such stock until further notice. The company has since credited all such stockists for their stock so as to relieve them of any burden of the loss. The company no longer supplies the above dioptre, even though it has been advised that this restriction should not be in place. The committee also received

some evidence to that effect. Womack has said that a new label has been commissioned to comply with the altered recommendations. It should be noted that the company is of the opinion that the select committee's recommended warning is superior to that imposed under the new regulations. Womack's submission further said:

In respect of compliance with Australian Standard 2228 steps have been initiated to ensure total compliance with this requirement. The overseas supplier was unable to give suitable and enforceable guarantees that all future stock would comply with Australian Standard 2228, and in order to overcome this problem of quality assurance arrangements have been made to source frames and lenses separately and have the lenses fitted and glazed in South Australia. The South Australian optical company contracted with will give suitable guarantees that the finished product will comply totally with Australian Standard 2228. It is expected that the new supplier of glasses meeting every requirement will come on line in mid to late November next—

—which was November last year, Sir. The submission continues:

Although every effort has been made to achieve this position the lack of prior warning has prevented an earlier achievement of these goals.

I think it is laudable that the company has now used a South Australian company to manufacture the lenses, and this will provide more employment in our ailing economy. So, I support the imposition of standards, as does Womack. On being informed of the new requirements, it moved swiftly to ensure compliance with the regulations as soon as possible. The portion of its submission which I have just read indicates that.

I will be seeking a vote today. I have not rushed the matter before as the Minister still had to respond. The Minister has not responded formally to the committee, and the committee is still waiting on the Minister's response. However, because this motion will drop off if it is not dealt with in the remaining stages of this session, I will be seeking a vote on this today, and I hope that the Democrats and the Government, if they wish to respond, will do so now so that the matter can be brought to a vote. Now that the Minister has responded to me personally late last night, saying that he will take no action and would not change the regulations, I have no option but to seek a vote today, and I commend the motion to honourable members.

The Hon. M.S. FELEPPA: I wish to speak briefly to this motion and take the opposite side. I would like to place on the record the indication of the Minister, the Hon. Martyn Evans. I remind the members that a select committee of the Legislative Council deliberated during 1987 on various amendments to the Opticians Act. The committee reported in February 1988 and, amongst its recommendations, it was proposed that the sale of ready-made single vision spectacles be permitted subject to a warning notice being attached which emphasised (a) that the ready-made glasses are not intended to correct any form of vision deficiency; (b) the deterioration of eyesight can be caused by ageing and eye disease which can be symptomless; and (c) it is advisable to have eyes regularly examined by an ophthalmologist or optometrist.

Those recommendations were translated into legislation by way of the Opticians Act Amendment Act 1988. Section 19 of that Act, which amends section 36 of the principal Act, provides that such glasses can be sold if (a) the glasses are designed only to alleviate the effect of presbyopia; (b) the glasses are comprised of two lenses of the same power, being power of plus one dioptre or more, but not exceeding plus three dioptres; (c) the glasses are manufactured to the prescribed standard; and (d) a prescribed warning is attached to the glasses in the prescribed manner at the time of sale. The amending Act was assented to on 5 May 1988. In other words, the power of the lenses with which ready-made spectacles would need to comply has been available by reference to the Act since May 1988.

The regulations necessary to implement other prescribed requirements in relation to ready-made glasses, and indeed the many other matters covered under the amending Act, had a somewhat long gestation period. So, by way of clarification I should point out that the amending Act dealt with a number of other substantial matters; for example, it provided for a restructuring of the Optometrists Board, the establishment for the first time of the Optical Dispensers Registration Committee and the introduction of a system of licensing of optical dispensers. In other words, there was a substantial amount of work to be done before the Act could be brought into force.

Ultimately, the board made its recommendations for regulations as required by the Act, and the regulations were duly gazetted on 25 June 1992, to come into force on 3 August 1992. The words 'prescribed standard' were spelt out as being Australian Standard 2228 in the regulations. It seems reasonable, therefore that the board chose to interpret 'prescribed standard' by reference to an existing Australian Standard.

The precise wording of the prescribed warning was also spelt out in the regulations. The select committee recommended certain points which it felt the warning notice should emphasise, and the prescribed warning picked up those points, albeit that the manner of expression is a little different. One particular company involved in the ready-made glasses industry, through the Legislative Review Committee process, has sought more time to dispose of old stock, things which I am sure my colleague on the committee, the Hon. Mr Burdett, has already referred to. Initially, the company sought an extension to 30 June 1993 and, indeed, while the matter has been subject to consideration by the Legislative Review Committee, no action has been taken to enforce the new requirements and the company has effectively had almost the amount of time that it initially sought (almost 12 months from the gazettal of the regulations).

However, more recently the company has made further representations seeking until 31 December 1993 to dispose of stock. While the company is apparently making every endeavour to have new stock comply with the new standards, its stockists still have some old stock left on hand. If the rate of sales previously anticipated when the extension of time to 30 June 1993 was sought has not been achieved, then one wonders whether the situation will really change with the suggested date of 31 December 1993 and whether the company, indeed, would be in any better position at that time. So, presumably markets in those States which do not have the same

requirements as South Australia would still be open to them.

The Minister in another place has perhaps come to the conclusion that he has given some consideration to the matter, although it is not entirely in his hands, as any changes in regulation must be on the recommendation of the Optometrists Board. So, with these few words I wish to finish by saying the Minister has received strong representations from the Optometrists Board and the Australian Optometrical Association that there has been adequate time to dispose of the old stock. These are the views of the Minister and it is unfortunate that this action by the Minister will still cause some financial situation to the company involved.

The Hon. M.J. ELLIOTT: I support the motion. I was on the select committee which looked at this issue—the original issue of whether or not glasses may be dispensed by other than optometrists—back in 1987. It was certainly my view at that time that, while optometrists had some legitimate concerns, I think a major driving force was an economic one that they wished to resist the sale of these glasses because, clearly, they would reduce income. One cannot help but wonder whether or not there is even a little bit of this coming via the Optometrists Board.

Leaving that aside for the time being, as I understand it the regulations came in about 3 August and one particular company had, at that stage, a large amount of stock. I have heard no suggestion in this debate that it imported further stock subsequent to that date, nor have I heard any suggestion that it distributed any stock after that date. If it had done either of those two things, or if it could be shown that it had done either of those two things, I would have little sympathy. Certainly to this time neither of those cases had been suggested. It does appear that the major company involved has tried to do the right thing. As of 3 August it has been assembling the glasses in South Australia and even doing some of the manufacturing work to ensure that it complies with the standards. As I understand it, it has not, at any stage, questioned the standards and it intends to continue to manufacture in conformity with those standards and sell to those standards in future.

It has made the point that it withdrew glasses above dioptre 3 from sale after promulgation of the regulations on 3 August but, be that as it may, according to the Act it should not have been selling them to start off with. The Act appears to be pretty clear on that. It does appear that it transgressed the Act in that regard. As we move towards setting up new rules, new laws, we have to ask ourselves a number of questions, when we go to look over what timeframe we do it. Is there an urgency? Are there particular people at risk? Is the risk a significant one? You then have to balance that against who will bear the cost which may occur because of it. As it turns out, the cost will fall on all the people holding the glasses and it appears there is an accumulation perhaps of $300 000 worth of glasses which may not comply. So, that will be held by perhaps 300 chemists. That is not a minor loss for anybody. It is averaging 1 000 and clearly some will be less and some will be more. If we are going to sustain that, if the Government is going to bear none of the cost itself, which it is not willing to do—

The Hon. Diana Laidlaw: It has no money to do it.

The Hon. M.J. ELLIOTT: Yes, because it has no money—then we must ask the other question: 'Is this standard urgent?' I have been given no evidence—I do not know if the committee had any but I have heard no evidence—to the effect that the glass perhaps is not of the requisite strength, that there have been accidents in relation to eyes, breakage of glass, or scratching is a particular problem. That is part of the standard, but if you buy cheap glasses then perhaps you accept the fact that they might scratch a little more easily. What is being asked of these glasses is that they comply absolutely with the standards of the glasses made by optometrists. I think when people buy the cheap glasses they are more often than not buying them as a second pair, as fishing glasses, perhaps something to keep in the car, whatever, and they are not expecting them to be the same standard.

As I said, there has been no suggestion that there is any great urgency to get to the standard, that there are people at risk. If there was such a suggestion that is something that we would balance against potential loss.

In the absence of that and several other matters that I raised earlier, in terms of behaviour of the company, perhaps with one minor exception, I do not think that we can sustain a case at this stage for the regulations to stand in the short term. Nevertheless, I think in the long term it is reasonable that we go to it and that is something the company itself does not question. I suggest that the regulations will be defeated unless some member of the Opposition, whom I do not know about, crosses the floor.

The Hon. Carolyn Pickles: You never know!

The Hon. M.J. ELLIOTT: You just don't know. That aside, I think the Minister will be drawing up new regulations. In so doing, I ask him to take into account the matters that have been raised in the debate and to give some reasonable time to allow a significant rundown of stocks and, as of that time, to let the regulations stand.

The Hon. J.C. BURDETT: I thank members who have contributed to this debate. The Hon. Mario Feleppa referred to the warning notice that is required by the Act and the regulations to be attached to ready-made glasses. This has been done. There is no suggestion that this has not been applied; it has been applied throughout. He also referred to the prescribed standard, which is the nub of the motion. The prescribed standard has been complied with by the company in question since it was brought in. Prior to that there was no standard. Of course, when there is no standard, there is no standard with which to comply. The company has been most ethical in complying with the standard since it was brought in. It is now acting in the interests of its retailers—the pharmacists—not of itself, in trying to ensure that people who purchased the glasses legally do not suffer. I also thank the Hon. Mr Elliott for his contribution, which was most useful and set out the position which should apply.

If these regulations, as I and the Hon. Mr Elliott said, are disallowed, there is no reason why the rest of the regulations which do not apply to the matter that we have been debating cannot be brought in promptly. I do not see how there can be any disability. Therefore, I ask members to support the motion.

Motion carried.

TRANSCONTINENTAL RAILWAY

Adjourned debate on motion of Hon. Diana Laidlaw (resumed on motion).

(Continued from page 2316.)

The Hon. DIANA LAIDLAW: I am sorry that time has not permitted all who would wish to speak in the debate to do so. Nevertheless, I thank those members who have contributed, particularly the Hon. Ron Roberts. I am heartened to hear that the Government is in favour of the key parts of the motion, namely:

That this Council calls upon the Commonwealth—

1. to comply with its obligations under terms of the Northern Territory Acceptance Act 1910 to construct, or cause to be constructed, the section of the transcontinental railway between Alice Springs and Darwin; and

2. to commence forthwith the survey of the remaining 300 km of the line from Alice Springs to Darwin that was not completed by Australian National in the early 1980s.

It is imperative that, following the momentum that was built up during the Federal election in favour of building the missing link in this railway, we in this place and in South Australia generally—that includes all sections of the community: the business community, the unions and the like—maintain the pressure on the Federal Government to ensure that it honours its undertakings, which were given in 1910. I will not elaborate on all the broken promises that have been made to this State every time the State negotiates a rail agreement with the Federal Government, but the prime example is this instance of the north-south railway. The more recent example, of course, relates to the rail transfer agreement and the agonies through which the State is going at present insisting that the Federal Government honour its undertakings to the State following the transfer of our non-metropolitan railways in 1975.

The Government has suggested an amendment to the motion. I am not prepared to support that amendment in its current form. To start with, it is essentially ungrammatical. I will not take issue with that, but I will take issue with the fact that what the Government and particularly the Hon. Ron Roberts are seeking to achieve is unclear.

The amendment states, in part 3, that this Council calls on the Commonwealth to actively pursue commercial proposals, but it does not elaborate in what form the mover wants these commercial proposals. Is it in relation to the construction of the line or for the operation of the line; or is for both? It also goes on to say that this pursuit of commercial proposals should not be undertaken until the completion of the survey work. I do not find that an acceptable proposition, especially when we do not know when the survey work is to commence. I think the pursuit of any proposal should be undertaken immediately to ensure that we get this line constructed as soon as possible, in the interests of the economic revival of this State.

The amendment then goes on to say that this Council calls upon the Commonwealth to reaffirm recent undertakings, but it fails to indicate who has made those recent undertakings, when and for what specific purpose. It does suggest that it is to facilitate the approval and construction and provide investment support for financially viable proposals.

In summary, I find the amendment most confusing—in fact, illiterate—and I also find it at odds with what I would maintain are the Commonwealth's obligations under the Northern Territory Acceptance Act 1910. That Act, I would remind honourable members, requires the Federal Government to build this line as compensation for the investment that this State, back in 1910, had invested in moving the line north to Oodnadatta at that stage and south from Darwin to Pine Creek. This undertaking in 1910 was for compensation for all the infrastructure that we had built associated with that line, and that included schools, houses, shops, road facilities and the like.

This undertaking in 1910 was not on the basis that a line to the north of Adelaide would be undertaken on a commercial basis. The undertaking was that it be given to this State as compensation for the investment of South Australians in the bold vision to build the transcontinental line. I believe that this suggestion that we be looking at commercial proposals, although it is not defined for what purpose, is in fact at odds with the Federal Government's undertaking of 1911, and I do not think we in this State should be letting the Federal Government off the hook so easily. In fact, one of the troubles with all the negotiations that we have undertaken in this State in the last 80 years, in terms of rail deals with the Commonwealth, is the fact that we always let them off the hook so lightly and they do not then feel that they have to pursue any of those undertakings.

We are always making excuses for them and we are always letting them wheedle their way out of any of these deals; or, as with the most recent incident with arbitrator Newton's decision in relation to the passenger line from Wolseley to Mount Gambier, we did not even insist on the arbitrator's decision. So, I am not prepared, nor is my Party, to allow the Government off the hook so easily by supporting this, I suppose, well-meaning but certainly lame and confused amendment being moved by the Hon. Ron Roberts on behalf of the Government. Generally, I appreciate that the original and main sentiment of my motion will be supported, although I will not support the amendment.

In conclusion, I was very disappointed in the Hon. Ron Roberts' contribution when he sought to defend the deal that former Prime Minister Bob Hawke had made with the Northern Territory Government following his decision not to honour an earlier undertaking by Prime Minister Malcolm Fraser to pursue the construction of this line. The fact is that Mr Hawke offered the Northern Territory Government 60 per cent of the cost of the line and suggested the Northern Territory Government pay the remaining 40 per cent. Since I have had the shadow portfolio of transport, my argument has consistently been that, had the Hawke Government at that time, or any Government since, offered to make a 60 per cent contribution towards the line and suggested that not to the Northern Territory Government but to a firm in the private sector, this line that we have been promised for so long would in fact have been built by this stage.

Amendment carried; motion as amended carried.

MARINE POLLUTION

Adjourned debate on motion of Hon. M.J. Elliott:

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.

(Continued from 21 April. Page 1946.)

The Hon. CAROLYN PICKLES: The Government opposes this motion. In so doing, first, I would like to give some background to the situation. The Marine Environment Protection Act requires all activities discharging to the marine environment to be licensed. This is a different approach to that being taken by the Environment Protection Office, which intends, under the proposed Environment Protection Act, to licence only significant polluting activities. The preferred mode of operation for environmental management of other unlicensed activities is by policy initiatives and codes of practice developed with industry along with environment protection notices to enforce policies and codes. Oyster farming (molluscs) and tuna farming (fin fish) are not considered significant polluting activities, and the EPA recommended an exemption under the MEPA.

The Hon. M.J. Elliott: Who recommended it?

The Hon. CAROLYN PICKLES: The Environment Protection Office. The Marine Environment Protection Committee (MEPC) and the EPA received submissions from the Oyster Growers Association and the Tuna Boatowners Association to exempt their activities from the Act. The Environment Protection Office investigated and consulted with interested agencies on the matter before recommending to the Government that oyster and fin fish farming in tidal waters also be exempted from the Act.

Some of the issues related to the water quality management are: that an aquaculture management plan prepared for Boston Bay concluded from water quality modelling that fin fish operations at the scale and stocking densities proposed would result in relatively minor localised impacts on the marine water quality in the immediate vicinity of a sea-cage operation. This is supported by a review of other farms in Scotland, Norway and the United States, which showed elevated nutrient levels within 50 to 100 metres at the cages, but no evidence for widespread nutrient enrichment from sea cage operations in open water bodies.

Despite this evidence there is still some concern that too many farming operations will cause an unacceptable elevation of nutrients in Boston Bay. This will be better controlled by managing the number of aquiculture leases issued for the bay rather than individual licences. The Department of Primary Industries supports this view.

Part of the management plan negotiated involves an extensive water quality monitoring program. The results of this program will provide greater certainty with regard to stocking rates and farm numbers. Nutrient levels in Boston Bay are, on occasions, reasonably high, and the most obvious source is the Port Lincoln sewage treatment plant. The Environment Protection Office will concentrate its efforts on licensing reduction and management of this effluent. This effluent is having a much greater impact than tuna farming on the bay and should therefore receive higher priority by the EPO.

Licensing will be used by the proposed environment protection authority for significant emission sources only. There is a general belief in the community that licensing immediately implies environmental management. This is not the case, and licences are only effective if a fee is charged and a service provided—in this instance negotiated and with properly managed conditions. Codes of practice, on the other hand, can be negotiated for an industry sector and used by all operators. Although the contents of the initial code require detailed negotiation, their generic use means less administrative costs and more efficient and cost effective environmental management by encouraging industry to accept ownership of the problems rather than the EPA. They also encourage continuous environmental management rather than permit-driven management.

In the case of oyster and tuna farmers, it has been agreed that a condition of exemption from the Act will be that their respective associations develop codes of practice and that these become policy under the EPA. We have agreed that the code of practice can be negotiated by the Department of Primary Industries with EPA representation and managed by the Department of Primary Industries. If expectations concerning environmental impact are underestimated and the tuna farmers turn out to cause significant environmental harm their activities can be brought under the Act and licensed at a later stage.

Tuna farming is a potentially significant industry with potential revenue earning capacity of $60 million. It is, however, by no means an established industry and requires a great deal of refinement before it becomes commercially viable. In these dire economic times the Government will play its part by removing red tape. The Government has ample regulatory and monitoring mechanisms already in place and some of these are planning approval from the Office of Planning and Urban Development, including advertising for third party appeal; lease approval from the Department of Environment and Land Management; aquiculture management plan, including a detailed monitoring program developed by the Department of Environment and Land Management and the Department of Primary Industries; and a licence for harvesting and stocking fish by the Department of Fisheries. A further licence is unnecessary and a code of practice would achieve more in this instance.

I now turn to some financial and marketing aspects. If oyster and tuna farmers are licensed the cost of advertising for the EPO would be about $28 000 and there will be further costs for basic administration of licences. As no fee is proposed to be charged by MEPC none of this can be recovered. From the tuna farmers' perspective, there will be potentially significant adverse revenue impacts, with the industry being licensed as polluters. Put very precisely in dollar terms, the price of farm tuna last season varied from 4850 yen per kilogram (then $54 per kilogram) to 1920 yen per kilogram (then $22 per kilogram), with a lower price being consistently obtained when fish perceived as being of inferior quality were auctioned. A price anywhere near this latter one will see the end of the tuna farming

industry and tuna farmers are of the opinion that the licence association will affect the market price.

In summary, fish farming in ponds or tanks ashore will continue to be subject to the Marine Environment Protection Act and licensed where they discharge into marine waters. The regulation exempts from the Marine Environment Protection Act the cultivation of molluscs, oysters and fin fish tuna for the following reasons. These operations are not significant polluters. There is some uncertainty with regard to tuna, but an extensive monitoring program has been agreed to check this. Codes of practice negotiated by DPI and EPO will achieve more than licensing in terms of environmental management. They will be adopted as policy under the Environment Protection Act and enforced by issue of an environment protection notice if necessary. DPI will have delegated responsibility to administer this code.

There are already sufficient regulatory mechanisms in place, in particular through the issue of DELM leases. As no fee is applied, codes of practice will be the most cost effective means of environmental management. EPA licensing could have an impact on the market price of tuna and, in turn, affect the commercial viability of the industry. If environmental effects are underestimated and tuna farming turns out to be a significant marine pollution problem it can be brought under the Act and licensed.

The Government has agreed to exempt from the Act the cultivation of molluscs and fin fish in tidal waters on the understanding that the respective industry associations will work with the Environment Protection Office and the Department of Primary Industries to develop environmental codes of practice for each industry sector. I hope that members can oppose this motion which has been moved by the Hon. Mr Elliott and support my statements in order that this important industry can be maintained.

The Hon. PETER DUNN: I will be mercifully brief if I am not interjected on. The Opposition does not support this motion on the basis that I do not believe any basic agricultural industry is a polluting industry and should be licensed as a polluting industry at this stage. A vote for this motion is a vote against an emerging industry, an industry we want more of. Certainly aquiculture is an industry which is in its infancy in South Australia and needs to be promoted. That can be demonstrated by the figures that the Hon. Carolyn Pickles used. If you take a prime fish from the sea and send it straight to Japan as sashimi, the return is approximately $22 per kilogram; but if they are fish farmed, taken straight out of the Port Lincoln harbor and air freighted to Japan, the average cost is about $46 but as high as $60 I understand. The reason for that is quite simple: in the wild the fish have very much darker meat than they do when they are fish farmed, and the lighter coloured meat is preferred by the Japanese consumer: so

we get that increase in price. If we go further than that and can them we get about $1.77 a kilogram for them—as against $54. A vote for this motion is a vote against the export dollar, and my God do we need that export dollar! It is also a vote against country people.

The Hon. I. Gilfillan interjecting:

The Hon. PETER DUNN: You are interjecting; I will go longer if you continue on that line. It is a vote really against country people because all these activities are being taken in the country, most of them around Eyre Peninsula—not all of them but most of them. We found an emerging industry in the form of oysters, which were started many years ago in Coffin Bay but have developed either side of the peninsula as far north as Cowell and as far west as Ceduna. A lovely product is coming out of there and is saving us many hundreds of thousands, probably millions, of dollars because we do not have to import oysters from the eastern States. We could knock out that industry by licensing it as a polluting industry. Oysters are a filter, they are not a polluter: they rely on using algae and other nitrogenous products that are in the sea to grow.

Tuna is a slightly different kettle of fish. Because they are fed, their normal bodily processes deposit excreta and, when you put them in an area like that, it can be shifted around. Already we are seeing in the Port Lincoln harbour fish farms being created in areas to which they are most suited. They are not particularly close to where the people are.

Quite a lot of work has been done on this. The current regulations license them as polluters, and the Government rightfully is taking that pollution licence out of that field, because we will have every crank trying to stop it, for whatever reason. The industry will spend the rest of its days trying to defend its position, and I cannot agree with that. If we cannot be big enough to allow the development of a new industry in this State, we will never succeed. We are in a parlous state now because we have allowed people who have been anti everything to get to a stage where they have knocked off just about everything.

We have the ridiculous situation at the moment where they have tried to knock off the fishing in Cooper's Creek, at Round Lake and Red Lake in the inland of Australia, by taking callop and putting them on the Melbourne and Sydney markets. We have heard environmentalists say that it is terrible. Having been up there the other day, I know that thousands of tonnes of fish are about to die because the water has evaporated and become too salty. Why should we not promote the use of the resources that we have? It is quite silly not to do so. We do not support the Hon. Michael Elliott's motion.

The Hon. M.J. ELLIOTT: Once I saw the Hon. Peter Dunn stand up, I knew quite well how things were going to fall.

Members interjecting:

The Hon. M.J. ELLIOTT: No, I knew exactly where it would fall. It is a statement of fact. A couple of years ago this Parliament spent quite some time on the Marine Environment Protection Bill. The Liberal Party played a prominent role in the passage of that very good piece of legislation. In fact, combined with the Democrats, the Liberals forced the Government's hand much further than the Government wanted to go. In the time that I have been in Parliament, it is probably one of the best pieces of legislation that has come out of this place. As I said, the Liberal Party played a prominent role in the passage of that legislation.

One important amendment that the Liberal Party and the Democrats jointly achieved was the setting up of the Marine Environment Protection Committee. That

committee was an independent body, although it comprised a number of interest groups, including the fishing industry. SAFIC had a nominee, and that is something that we insisted be included in relation to that committee.

The committee, which comprises very wide interests, such as the industry generally as well as fishing, environment groups and independent experts, is chaired by Dr Alan Butler of the University of Adelaide, a significant expert in marine biological matters. My understanding is that the committee strongly advised that these industries should be licensed. This Parliament has decided, having had set up an independent body which I believe has functioned extremely well, to ignore the advice of that committee. I am not saying that Parliament should not be game to disagree with a committee's recommendations but, if we do so, we should do it for a profoundly good reason.

The Hon. R.I. Lucas: I think you are only half right in that.

The Hon. M.J. ELLIOTT: Does the honourable member claim that they disagreed with one of the two activities? Nevertheless, even if that were the case—

The Hon. R.I. Lucas: I am trying to inject some facts into the argument.

The Hon. M.J. ELLIOTT: If the honourable member wants to inject facts, he would still have to support the disallowance of the regulations.

The ACTING PRESIDENT (Hon. M.S. Feleppa): Order!

The Hon. M.J. ELLIOTT: Aquiculture as an industry is probably one of the primary beneficiaries of the Marine Environment Protection Act. Whether or not the Port Pirie smelters puts heavy metals into the gulf, and whether the sewerage works at Port Lincoln puts sewage into the gulf, the effects that occur at the end of the day will not affect people on the land unless (a) they care about the environment, or (b) they happen to have financial interests in the marine environment.

Fishers and aquaculturists are the people with primary economic interest in the marine environment. So, here we are asking every other industry in the State which has a potential to pollute the marine environment, no matter how small, to be licensed. Here we have an industry in the gulf waters and other waters as a primary beneficiary of the Act being exempted from it. That for starters is an act of great hypocrisy.

I made it quite clear when I moved the motion that I was in support of aquiculture, and in fact I argued that there are sound environmental reasons for supporting aquiculture. The tuna fishery, for instance, has been clearly over-fished, and it was one of the driving forces behind the aquiculture industry— a recognition that we could get value added and protect the natural stocks. So, I quite clearly argued that there was a good case for aquiculture. I did not argue against it. I recognise it as a significant contributor to our State's economy.

It is also fair to say that, when we start a new industry, with which we have very little experience, we should go into it carefully in case we make mistakes which we later regret. When the first settlers came to South Australia, they made significant mistakes. They tried growing wheat too far north. In fact, they destroyed some of the country as a consequence. They simply did not know enough when they went up there. Also, the stocking rates of some areas of pastoral land were clearly too high, and damage was done. More recently, people have learnt from that experience and behave responsibly. It is not really suggested that they acted irresponsibly; they simply did not know.

We are going into a new industry. We do not know at this stage to what size it will grow without messing itself up as well. We do not know the answer to that. We must do it carefully, and that involves extensive monitoring programs and the setting of standards, which need to be complied with.

Every other industry that is having standards set by the Marine Environment Protection Committee is licensed under the Act, and the aquaculturists are saying that they do not think that is right. Plainly, that is not acceptable. To suggest, as the Hon. Carolyn Pickles did, that there are no problems elsewhere is wrong. They have had problems in the United States with salmon farming. They have algal blooms linked with salmon farms in open ocean waters. So, the honourable member's claim is simply not correct. To claim that oysters may not create a problem in Coffin Bay also is incorrect. As I understand it, when all the leases currently available in Coffin Bay are taken up, those oysters will be producing 800 tonnes of excreta per year. At a certain level of production, that will become part of the food cycle. In other words, it will break down and supply nutrients for the single-cell and slightly larger organisms that oysters and other things feed upon.

It is also possible, particularly because we have an unnaturally high concentration in localised areas, that it will accumulate in areas, and it has the very real potential to cause significant ecological change, which may feed back and affect the very industry that is there. I am not saying that oyster farmers should not be there. What I am saying is that it is sensible with a new industry, when you do not know precisely what it will do, that you treat it with caution.

That is the responsible thing to do, and I would argue that this place will behave irresponsibly if it does not require standards for this industry. We require standards for all other industries by way of licensing and the newest industry—the one we know least about—is the one that we decide not to license. That is just nonsense. I have moved the motion to disallow the regulation. I hoped that there would be support, but it is evident that it is not here.

The Council divided on the motion:

Ayes (2)—The Hons M.J. Elliott (teller), I. Gilfillan.

Noes (18)—The Hons J.C. Burdett, T. Crothers, L.H. Davis, Peter Dunn (teller), M.S. Feleppa, K.T. Griffin, J.C. Irwin, Diana Laidlaw, R.I. Lucas, Bernice Pfitzner, Carolyn Pickles, R.J. Ritson, R.R. Roberts, T.G. Roberts, J.F. Stefani, C.J. Sumner, G. Weatherill, Barbara Wiese.

Majority of 16 for the Noes.

Motion thus negatived.

GUARDIANSHIP AND ADMINISTRATION BILL

Bill recommitted.

In Committee.

Clause 3—'Interpretation'—reconsidered.

The Hon. BARBARA WIESE: I move:

Page 1, after line 27—Insert new definition as follows:

'dental treatment' means treatment or procedures carried out by a dentist in the course of dental practice:.

If it is acceptable to the Committee, I would like to speak to all these amendments at one time. Honourable members will be aware that when we considered the Guardianship and Administration Bill and the Mental Health Bill we were considering them as part of a package. They were to be part of a package along with the Consent to Medical Treatment and Palliative Care Bill, so some of the provisions in these two Bills were drafted to fit with provisions of the proposed consent Bill. It is now very apparent that the Consent to Medical Treatment and Palliative Care Bill will not be brought to a conclusion before the end of this session, and it is therefore necessary to reconsider the status of these two Bills in the light of that fact.

It is undesirable that the important initiatives that are contained in these two Bills should be delayed until the next session, and it is therefore necessary to take the Guardianship and Administration Bill and the Mental Health Bill to stand alone status, that is, to split out the linking provisions with the consent Bill.

Not only does that mean taking out provisions (and some moves have already been made in that regard) but it also it means reinstating some references to the Consent to Medical and Dental Treatment Act 1985 and re-establishing linkages with that Act. So, the three amendments that we have before us achieve that purpose and I commend them to members.

The Hon. R.J. RITSON: I support these amendments, which do not, in fact, actively contribute to the consistency as between the two Bills. That consistency was created by the deletion of the part that referred to the non-application of the Bill to people who have appointed a medical agency. Had we dealt with the consent to treatment and had we defeated any amendment which gave the Guardianship Board jurisdiction, we might have produced an inconsistency. However, because we have not proceeded with the other Bill, because nobody has a medical agent pursuant to the other Bill and because the Bill therefore remains as I amended it by deleting that provision, there is no inconsistency and, in fact, that part is not dealt with or affected by this legislation. What these amendments do, in effect, in the view perhaps of the psychiatric profession or whoever has made submissions to the Minister for this alternative drafting, is make more precise and clearer the circumstances under which a person may treat a patient against their wishes for their benefit. Perhaps the amended provisions are more economical of words. Instead of defining the circumstances under which treatment can be administered, the reference is to prescribed circumstances.

I see nothing in these amendments that I object to and nothing that is inconsistent with the amendment which I successfully moved. I suspect that these are a response to consideration of representations by the psychiatric profession. I would recommend that they be agreed to and support them.

Amendment carried; clause as amended passed.

Clause 60—'Prescribed treatment not to be carried out without board's consent'—reconsidered.

The Hon. BARBARA WIESE: I move:

Page 28, lines 12 to 14—Leave out 'circumstances exist for the giving of emergency medical treatment under any Act' and insert 'prescribed circumstances exist for the purposes of section 60a'.

Amendment carried; clause as amended passed.

New clause 60a—'Emergency medical or dental treatment of persons unable to consent.'

The Hon. BARBARA WIESE: I move:

Page 29, after clause 60—Insert new clause as follows:

60a. (1) Where medical or dental treatment is given in prescribed circumstances by a medical practitioner or a dentist to a person to whom this part applies, the person will be taken to have consented to the treatment and the consent has the same effect for all purposes as if the person were capable of giving effective consent.

(2) Prescribed circumstances exist for the purposes of subsection (1) if—

(a) the medical practitioner or dentist giving the treatment—

(i) is of the opinion that the treatment is necessary to meet imminent risk to the person's life or health;

and

(ii) has no knowledge of any refusal on the part of the person to consent to the treatment being a refusal made by the person while capable of giving effective consent and communicated by the person to the medical practitioner or dentist or some other medical practitioner or dentist;

(b) the opinion of the medical practitioner or dentist referred to in paragraph (a) is, unless it is not reasonable practicable to do so having regard to the imminence of the risk to the person's life or health, supported by the written opinion of one other medical practitioner or dentist;

and

(c) the appropriate authority for giving consent to the treatment is not reasonably available or, if available, has been requested to give consent but—

(i) has failed to respond to the request; or

(ii) where the person to be treated is under the age of 16 years—has refused to give consent.

New clause inserted.

Bill read a third time and passed.

MENTAL HEALTH BILL

Bill recommitted.

In Committee.

Clause 3—'Interpretation'—reconsidered.

The Hon. BARBARA WIESE: I move

Page 2, lines 5 and 6—Leave out definition of 'medical agent'.

As I indicated in the debate on the previous Bill, now that the consent Bill will not pass during the course of this session it is necessary to adjust the Bill as it is drafted since it was drafted to dovetail with the consent Bill. Therefore, there are amendments here that will leave out the definition of 'medical agent', for example, and also restore references to the existing Consent to Medical and Dental Procedures Act 1985, so that the legislation will be able to be enacted even though the consent Bill will now not pass. The arguments for the amendments before us on this Bill are therefore the same as the arguments that were just agreed to with respect to the guardianship legislation.

The Hon. BERNICE PFITZNER: I was not aware of this sudden change in procedure. I understand that now the consent Bill will not go through this session. That means that we are changing some of these terms in the mental health and guardianship legislation because the consent Bill is not going to go through. Once the consent Bill gets through in the next session, if it does not go through as we expect, will we restore some of those things we have taken out?

The Hon. BARBARA WIESE: Presumably the Minister will want to reintroduce the consent Bill in the next session of Parliament. If the consent Bill is agreed to in the form in which he introduced it, it would be necessary to adjust the Mental Health Bill to be consistent with it. Of course, the reverse argument now applies. As we shall not be passing the consent Bill in this session, the provisions that were included in the Mental Health Bill to complement provisions in the consent Bill should not pass in this session, either. Therefore, the first few amendments are being withdrawn. The second set of amendments—the amendments to the schedule—are being altered to return to the *status quo.* The current provisions are being restored because the consent Bill will not now be passing in this session.

The Hon. BERNICE PFITZNER: Would the Minister mind going through these? I understand 'medical agent', because that is a new term that will be instituted if the consent Bill goes through. However, will the Minister go through the others? I understand the gist of it, but I am not quite clear on the whole matter. I understand 'guardian or medical agent'; those are new. But what about 4a(a), striking out 'procedures' and substituting 'treatment'; what is that all about?

The Hon. BARBARA WIESE: The amendment will make it clear that we are not dealing with procedures as I understand that term is used in the medical profession to mean operations of some sort; it is being expanded to include treatments of other types as well as surgical treatment. It includes other forms of treatment. For example, it would embrace psychiatric treatment that a patient might receive. That is the purpose of the amendments to the schedule.

The Hon. BERNICE PFITZNER: You mean that 'treatment' is the umbrella and that it covers 'procedures' as well.

The Hon. BARBARA WIESE: Yes.

The Hon. BERNICE PFITZNER: Is that the same in 4a(d), striking out the definition of 'dental procedure' and putting in 'dental treatment'?

The Hon. BARBARA WIESE: Yes.

Amendment carried; clause as amended passed.

Clause 21—'Revocation of treatment orders'—reconsidered.

The Hon. BARBARA WIESE: I move:

Page 9, line 11—Leave out ', guardian or medical agent' and insert 'or guardian'.

Amendment carried; clause as amended passed.

Clause 22 — 'Prescribed psychiatric treatment'—reconsidered.

The Hon. BARBARA WIESE: I move:

Page 10, lines 1 to 3—Leave out all words in these lines.

Amendment carried.

The Hon. BARBARA WIESE: I move:

Page 10, line 4—Leave out '. in any other case'.

The Hon. BERNICE PFITZNER: Will the Minister explain 'in any other case'?

The Hon. BARBARA WIESE: This amendment is necessary because we are removing references to 'medical agent' in the legislation. In that part of the Bill there were various issues that related to the functions of the medical agent which have now been removed. Therefore, 'in any other case' must also be removed. The medical agent will no longer be able to act in any other case as the medical agent will not be there. Therefore, the powers revert to the board, as is presently the situation.

Amendment carried; clause as amended passed.

Schedule—reconsidered.

The Hon. BARBARA WIESE: I move:

Page 18, after line 32—Insert:

4a. The Consent to Medical and Dental Procedures Act 1985 is amended by—

(a) striking out from the long title "procedures" and substituting "treatment";

(b) striking out section 1 and substituting the following section:

Short title

1. This Act may be cited as the Consent to Medical and Dental Treatment Act 1985.;

(c) by striking out the definition of "consent" in section 4 and substituting the following definition:

"consent", in relation to medical or dental treatment, means informed consent:;

(d) by striking out the definition of "dental procedure" in section 4 and substitute the following definition:

"dental treatment" means any treatment or procedures carried out by a dentist in the course of dental practice:;

(e) by striking out the definition of "medical procedure" in section 4and substituting the following definitions:

"medical treatment" means any treatment or procedures carried out by a medical practitioner in the course of medical or surgical practice and includes the prescription or supply of drugs:

"mental incapacity" has the same meaning as in the Guardianship and Administration Act 1993:;

(f) by striking out from section 5(1) "mental illness or mental handicap" and substituting "mental incapacity";

(g) by striking out from paragraph (c) of section 5(2) "a medical procedure or dental procedure" and substituting "medical or dental treatment";

(h) by striking out from section 6(1) "a medical procedure or dental procedure" and substituting "medical or dental treatment".

(i) by striking out from section 6(2) "a medical procedure or dental procedure" and substituting "medical or dental treatment";

(j) by striking from paragraphs (a) and (b) of section 6(2) "procedure" wherever it occurs and substituting in each case, "treatment";

(k) by striking out from section 6(4) "a medical procedure or dental procedure and substituting "medical or dental treatment";

(I) by striking out from section 6(5) "a medical procedure or dental procedure" and substituting "medical or dental treatment";

(m) by striking out from section 6(5) "procedure" third occurring and substituting "treatment";

(n) by striking out from section 6(6) "medical procedure or dental procedure" and substituting "medical or dental treatment";

(o) by striking out from paragraphs (b) and (c) of section 6 (6) "procedure" wherever it occurs and substituting, in each case, "treatment";

(p) by striking out from section 7(1) "a medical procedure or dental procedure" and substituting "medical or dental treatment";

(q) by striking out from section 7(1) "procedure" third occurring and substituting "treatment";

(r) by striking out from section 7(2)(a) "medical procedure or dental procedure" and substituting "medical or dental treatment";

(s) by striking out from section 7(2)(b) "procedure" wherever it occurs and substituting, in each case, "treatment";

(t) by striking out from paragraph (a) of section 8(1) "a medical procedure or dental procedure" and substituting "medical or dental treatment";

(u) by striking out from paragraph (a) of section 8(1) "procedure" third and fourth occurring and substituting, in each case, "treatment";

(v) by striking out from paragraph (b) of section 8(1) "a medical procedure or dental procedure" and substituting "medical or dental treatment";

(w) by striking out from subparagraphs (i) and (ii) of section 8(1)(b) "procedure" wherever it occurs and substituting, in each case, "treatment".

Amendment carried; schedule as amended passed.

Long title.

The Hon. BARBARA WIESE: I move:

Page 1:

Line 8—Leave out 'and ' second occurring and insert ','

Line 9—After '1940' insert 'and the Consent to Medical and Dental Procedures Act 1985'.

The Hon. BERNICE PFITZNER: I am not sure to what that refers. Will the Minister clarify it?

The Hon. BARBARA WIESE: These are simply amendments to the long title of the legislation. It does not relate to any functions or procedures.

Amendments carried; long title as amended passed.

Bill read a third time and passed.

DEVELOPMENT BILL

Consideration in Committee of the House of Assembly's message—that it had agreed to amendment Nos 2 to 5, 9 to 12, 15, 18, 19, 21, 22,30, 34, 35, 37, 38, 41, 44 and 58 to 62 made by the Legislative Council; had disagreed to amendments Nos 1, 7, 8, 16, 20, 23, 26 to 29, 36, 39, 40, 42, 43 and 45 to 57; and had disagreed to amendments Nos 6, 13, 14, 17, 24, 25 and 31 to 33 and made alternative amendments in lieu thereof, as follows:

No. 6 Clause 6, page 11, lines 32 and 33—Leave out 'nominated by the Local Government Association of South Australia' and substitute 'chosen from a panel of three such persons submitted to the Minister by the Local Government Association of South Australia'.

Clause 6, page 12, lines 3 to 5—Leave out paragraph (e) and insert new paragraphs as follows:

(e) a person with practical knowledge of, and experience in, environmental conservation or management, or the management of natural resources;

(f) a person with practical knowledge of, and experience in, the provision of facilities for the benefit of the community.

No. 13 Clause 22, page 21, after line 13—Insert new subclause as follows:

(3a) The appropriate Minister must, in relation to any proposal to create or alter the Planning Strategy—

(a) prepare a draft of the proposal; and

(b) to such extent as the Minister thinks fit, give notice of the place or places at which copies of the draft are available for inspection (without charge) and purchase and undertake such consultation (including one or more public hearings) as may be appropriate.

No. 14 Clause 24, page 23, lines 29 and 30—Leave out 'by the Minister' and substitute the following—

(i) by the Minister on the basis that the Minister considers that the amendment is reasonably necessary to promote orderly and proper development within the relevant areas and that, after consultation with the relevant councils, the Minister considers that it is appropriate for the Minister to undertake the amendment; or

(ii) by the relevant councils with the approval of the Minister (and, in such a case, section 25 will apply with any necessary modifications);.

No. 17 Clause 25, page 25, after line 27—Insert new subclause as follows:

(11a) Where a proposed amendment designates a place as a place of local heritage value, the council must, on or before the day on which the Plan Amendment Report is released for public consultation under subsection (11), give each owner of land constituting the place proposed as a place of local heritage value a written notice—

(a) informing the owner of the proposed amendment; and

(b) inviting the owner to make submission on the amendment to the council within the period that applies under subsection (11).

Clause 25, page 25, lines 28 and 29—Leave out 'prescribed under subsection (11)' and substitute 'under subsections (11) and (IIa)'.

Clause 25, page 25, line 30—After 'public consultation' insert 'and, if relevant, under subsection (11a)'.

Clause 25, page 25, lines 35 to 37 and page 26, line 1 and 2—Leave out paragraph (a) and substitute new paragraph as follows:

(a) seek the advice of the Advisory Committee—

(i) if the Minister is of the opinion that there is substantial public opposition to the whole or part of the proposed amendment, or that the council has recommended that substantial alterations be made to the amendment; or

(ii) in the case of an amendment that designates a place of local heritage value—if the owner of the land objects to the amendment (and, in such a case, the owner of the land must be given a reasonable opportunity to make a submission to the Advisory Committee (in such manner as the Advisory Committee thinks fit) in relation to the matter before the Advisory Committee reports back to the Minister); and.

Clause 26, page 26, after line 32—Insert new subclause as follows:

(5a) here a proposed amendment designates a place as a place of local heritage value, the Minister must, on or before the day on which the Plan Amendment Report is released for public consultation under subsection (5), give each owner of land constituting the place proposed as a place of local heritage value a written notice—

(a) informing the owner of the proposed amendment; and

(b) inviting the owner to make submission on the amendment within the period that applies under subsection (5).

Clause 26, page 27, lines 1 and 2—Leave out all words in these lines after 'Advisory Committee' in line 1 and substitute:

(a) on the matters raised as a result of public consultation under subsection (5); and

(b) on any submission made under subsection (5a); and

(c) on any proposed alterations to the amendment.

Nos. 24 and 25 Clause 28, page 28, lines 27—Leave out paragraph (b) and insert new paragraph as follows:

(b) if either House of Parliament passes a resolution disallowing the amendment after copies of the amendment have been laid before both Houses of Parliament under section 27 (7);.

Nos. 31, 32 and 33 Clause 46, page 43, after line 17—Insert new subclauses as follows:

(2a) The Minister must, in considering whether an environmental impact statement should be prepared, take into account criteria prescribed by the regulation.

(2b) The Minister, in formulating the guidelines referred to in subsection (2)(b), undertake such public consultation as the regulations may require.

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

That Council do not insist on its amendments Nos 1, 7, 8, 16, 20, 23, 26 to 29, 36, 39, 40, 42, 43 and 45 to 57.

I understand that there have been some discussions informally about the resolution of the issues that were outstanding between the two Houses on this Bill, and the motions that I am moving give effect to the results of those discussions.

Motion carried.

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

That the Council do not insist on its amendments Nos 6, 14, 17, 24, 25 and 31 to 33.

The Hon. M.J. ELLIOTT: It appears that I will get a chance to look at some of these amendments later on. As the Attorney-General implied but perhaps did not make sufficiently clear, much of the debate that one would normally expect to happen in this place will not occur because it has been replaced by a series of deals done somewhere in this Parliament between a handful of members.

The Minister was back here last night very keen to ram it through and to heck with any chance to discuss the amendments regardless of the way the numbers lay. I am appreciative of the fact that at least neither the Opposition nor the Government allowed him that privilege (but I am not sure that that is the right word). Governments seem to treat the Legislative Council with disdain. I am pleased that the Opposition and the Government, despite the fact that they recognise that the numbers are there, have allowed some debate, albeit to some extent fruitless, in that the numbers were worked out before we came into the place. However, I believe that it has at least allowed the Hon. Di Laidlaw to pick up one error which she will now seek to correct by way of a further amendment.

I will be opposing the motion. I felt that the Council had a number of reasonably useful amendments. We certainly missed our opportunity to confront the major issues in the legislation, and that is something that this community will suffer from in time to come. Nevertheless, there still were a number of most useful amendments which now in the deal process have been ditched. I must say that I do not understand why the Opposition folded so readily on these because the numbers in Upper House say that that was not necessary. I think that that reflects badly on the Opposition. Already I have had feedback from people in the community who are absolutely astonished and dismayed. They have commented to me about how the Opposition had made such a show in the Lower House and had given such good speeches, and in fact they were pleasantly surprised by what was said there and were even a little pleasantly surprised that some good things had come out of the Upper House.

Because so much of it is now being ditched the Opposition will find that what little bit of credibility it was picking up it has blown—but it will have to live with that. It has done itself enormous damage with this legislation. Already the Government has destroyed its credibility by the way it has behaved under current legislation. People in this community looked forward to better legislation—people not just from environment groups. I have been talking with developers in relation to Crown development; and there are matters in relation to local government and other areas which could have and should have been handled yet have been ducked, largely. As I said, it is a matter of grave disappointment. Well over half of what little progress we made in the Upper House has been ditched and it did not need to be. Obviously, jelly knees struck the Opposition, or perhaps it was not really fair dinkum about amendments that it put in both Houses in earlier stages of the legislation.

The Hon. DIANA LAIDLAW: The remarks of the Hon. Mr Elliott call for a response. I would argue very strongly that we have made considerable progress with regard to the Bill that was introduced by the Government.

The Hon. M.J. Elliott interjecting:

The Hon. DIANA LAIDLAW: No, you have had your say. We have made considerable progress with regard to the Bill that was introduced by the Government in the other place. The Liberal Party was successful in moving amendments there. We were again successful, with the assistance of the Australian Democrats and with the assistance provided by the Liberal Party to the Australian Democrats, in moving in this place a considerable number of amendments. If the honourable member chose to go through this schedule of amendments he would note that about half the amendments made in the Legislative Council have been accepted in the other place. I think that he should be in fact congratulated for that fact and should be commending the Council for the responsible role that we have played in the debate on this Bill.

It is correct that a number of amendments made in this place have not been agreed to in the other place. I do not have control over Government numbers, as much as I would like to have such influence: but I do not have control nor does my Party have control in that regard. Although those amendments have not been agreed to, there has been compromise on a number of matters that I know the Hon. Mr Elliott holds dear and that he has argued for passionately and that I equally argued for passionately. Those matters deal with consultation with the community and relate to one of the most significant amendments in this Bill—that is, the environmental impact statement process, and also in the preparation of the planning strategy.

I have a further amendment to the community consultation process for the planning strategy. If the Hon. Mr Elliott would care to recall last week, he would know that his amendments for community consultation on the environmental impact assessment process at a preliminary stage would have been defeated without the cooperation of the Liberal Party on the floor of this place to seek a compromise. He was then able to keep that matter open for further consideration and debate in the other place.

It is unfortunate that the Hon. Mr Elliott has sought to reflect on this place as a whole but in particular on Liberal members in our conduct of the Bill and our support for a large number of the propositions that he has argued for in this place. I regret that he has sought to reflect on the efforts of Liberal members—in particular I suppose myself—in seeking to address this Bill in the best interests of all in the community, not only for those whom the Hon. Mr Elliott seeks to represent, and that some may argue is a narrow sectional interest.

I think the Liberal Party has sought to reflect all views in the community. We have sought to ensure that in future the hideous situation, the odious situation, of the past, where we have seen the Government blatantly disregard community views in a whole range of major projects and by its own actions bring the planning and development system in this State into disrepute, does not occur again. I think we have worked together well with the Democrats to redress that situation, and the Bill is healthier for that cooperation.

Unlike the contribution of the Hon. Mr Elliott, I would like to thank him for his contribution to this debate and for the improvements that he has made to the Bill in association with the Liberal Party, and I also commend him for the hard work that he has undertaken over many years with respect to this issue. I think that much of that hard work is reflected in the outcome of this Bill.

One does not always achieve all that they want at all times. Mr Elliott is no newcomer to this Parliament and would know that we make progress in small stages, and this is one such occasion. This Bill will again come back to this Parliament and this place and the Liberal Party has said that whenever this Bill is debated we will be taking a keen interest in how the Government and, in particular, the Minister handles the many discretions in the Bill. We will be undertaking to review the operation of the Bill I hope from a position of Government within 12 months.

Finally, in summing up my general remarks on this Bill, I believe that in this Bill a great deal of faith—and I find this personally uncomfortable—has been placed on the integrity of developers.

I think the developers are on notice that if they do not act with integrity and with the faith that the Government and the Parliament have been prepared to place in them and their work, in honouring discretions within this Bill, there will be good reason for this Parliament to come down with a heavy hand. I have argued in the past that the community want certainty in the planning process.

Again, I briefly refer to what I see as the ugly situation in North Adelaide with the shopping centre when residents believed they had certainty in terms of residential development, but now we have a developer coming in with commercial proposals on residential land and at a height limit which is outside the City of Adelaide plan.

The Hon. C.J. Sumner: Where is that?

The Hon. DIANA LAIDLAW: Near you, Attorney, with the car park in—

The Hon. C.J. Sumner: Why did they knock over the first residential development?

The Hon. DIANA LAIDLAW: I am not on council, and they can argue that. The development that is there now does not comply and I find it disagreeable for developers to plead for this Parliament to provide them with certainty in planning law and then not honour the circumstances and processes when in fact residents and the community believe—

The Hon. C.J. Sumner interjecting:

The Hon. DIANA LAIDLAW: That is not the current proposal.

The Hon. C.J. Sumner: It was rejected by the council. The council told them to try something else, so they are now building a shopping centre there and the council is going to knock that off as well.

The Hon. DIANA LAIDLAW: The Attorney clearly has a keen interest in this commercial development on residential land going ahead. I find it disagreeable. It is outside the City of Adelaide plan, and it is that sort of behaviour that gives rise to a great deal of unease about planning laws in this State. The type of gung ho attitude of the Attorney who is now arguing the matter has brought planning in this State into disrepute. If he carries on, we might be reconsidering many amendments.

The Hon. M.J. ELLIOTT: I wish to speak in relation to a number of clauses which this motion suggests we should not insist on. First, I note that I certainly did not seek to offend some individuals in the Liberal Party who I believe did a great deal of hard work. I was certainly concerned about the position taken overall. That is one of the things that happens in a large Party room which is generally speaking highly conservative.

The Hon. Diana Laidlaw interjecting:

The Hon. M.J. ELLIOTT: I suppose that, if we look after bookmakers a little better, that is the main thing. I should also react to one other suggestion that the group of people I seek to represent is fairly narrow. If we consider resident groups generally other than environment groups, the people interested in the Craigburn Farm, for instance, we see that they are a fairly diverse type. If we take the Mount Lofty Ranges issue, a major interest group there was made up of farmers. I played a very active role in trying to protect their interests as well. Anyone who has looked at the proceedings of the Environment, Resources and Development Committee would note that I was trying very hard to ensure that the interests of farmers, the environment, tourism etc. were all being balanced in the best interests of all. Frankly, I think the committee showed that it is possible to balance all those interests. That is the kind of approach I have tried to bring to development generally.

What I have found so difficult in the past seven years is that, although you try to bring that approach, you have a Government which is abusing processes up hill and down dale, and it creates the black and white situations by its behaviour. That is what has been so annoying. Certainly what I wanted to do in this legislation was tackle the three key areas of Crown development, ministerial discretion and environmental assessment which have caused almost all the problems. Those three problems have not been addressed at all adequately. In fact, in most cases they have not been addressed at all.

Despite the fact that we have had a number of little wins, the big and important wins, those that led to the fall-over of the big projects, are still there. I think we will have the same problems, and it will rest on the head of Michael Lennon and John Ellis, who have done so much of the work on this, and the Ministers who have rubber stamped it. I hope history notes the consequences of what we have done here tonight. I fear that it has not fixed up anything at all. Time will tell.

I will now move to the clauses. The first clause we have been asked not to insist on attempts to define 'ecologically sustainable development'. I know that the Hon. Mr Dunn has a fit every time the term 'sustainable' is used. That aside, it is quite bizarre to use a term such as 'economically sustainable development' in a piece of legislation. It is mentioned in the clause that ecologically sustainable development is something that must be taken into account when a development plan is being drawn up. It is a term that you will not find in any dictionary and which is not defined by the Act. To me, that is quite amazing. If Parliament is to ask people to take something into account, precisely what is it we are being asked to take into account? I can accept that some people might disagree with my amendment. We might have arguments about that, but to leave the term undefined is too amazing and beyond belief.

Originally, an amendment was moved in relation to clause 6. In fact, the Liberals in the Lower House moved an amendment which allowed representation from the Conservation Council of South Australia. It is an amendment which I supported, but it has now decided that it does not like its own amendment. I guess the Liberal Party must have been taking Lance Milne lessons or something, because it has gone and withdrawn its own amendment moved in the Lower House, for which it received support in the Upper House, but has now run for cover. I do not understand that at all.

However, I will say that I am pleased at least that they appear to have recognised the need to separate 'a person with practical knowledge and experience in environmental conservation' from 'a person with practical knowledge and experience in provision of facilities for the benefit of the community'. Formerly one person had to do all of that. That was plainly nonsense, and that is one amendment that it is nice to see has survived. As I said, they did recant on allowing the Conservation Council to choose the person who might represent those interests, and they have also not designated any body that might represent some of the other interests. As a matter of course, I prefer particular bodies to be included in the legislation wherever practicable.

The next amendment, which relates to clause 24, sought to increase the powers of local government where the development plan is to be amended over more than one council area. This area has been abused in a number of cases in the past, and the Government has substantially accepted the amendment which came from this place. The amendment was not quite as strong as I had initially hoped for (it is something of a compromise amendment) but it does at least, in general terms, require the Minister to go to councils and not just produce a development plan out of thin air, something that has happened a little too frequently in recent times. I hope that local government is pleased to see that the Liberals and the Democrats have managed to retain that. However, amendments to clause 25 which relate to that same issue now appear to have been removed and I think, if anything, that tips the balance a little more back in the Minister's direction.

I note that the Opposition and the Government are looking to amend clause 27 to return it to its original form, so that 'may' rather than 'must' is used. I certainly understood that we were seeking to limit discretion and make things absolute requirements: if they should be done, they should be done, and it should not be left to a discretion.

The Hon. Diana Laidlaw: We are objecting to the word 'must' in all instances except where it applies to the Governor. All the advice we received after it was considered here was that we could not insist through legislation that the Governor do anything, but where there were discretions for the Minister we have required that now.

The Hon. M.J. ELLIOTT: I understand that you have done that, but it ties back to a problem that I raised when we last debated this legislation, that is, the use of

the Governor, because it does create exactly that problem. It is a proposition which I put to the Opposition at that time and which was rejected: that the use of the word 'Governor' effectively shields the Government from legal questioning, and that we cannot actually require anything to be done. It increases the level of unquestioned discretion, and again that is a repeating theme throughout this legislation, and has been present where previous legislation has been abused. I am sorry that this has to be done so much on the run—

The Hon. C.J. Sumner: You had it last night.

The Hon. M.J. ELLIOTT: What time last night? Midnight?

The Hon. C.J. Sumner: You had all day to do it.

The Hon. M.J. ELLIOTT: It was received at midnight. I was in a standing committee all morning and I have been involved in debate the rest of the day, That is hardly adequate time to consider these things.

The Hon. Diana Laidlaw interjecting:

The Hon. M.J. ELLIOTT: Okay. I actually need more time right now. The problem is that, quite literally, I have not had the time to look at the legislation. It is quite ridiculous. Of course, Minister Crafter wanted to do it last night.

In relation to clause 28, I had put the proposition that interim development control was necessary where one was seeking to stop undesirable development. That is precisely what the Government needed to do in the Mount Lofty Ranges. However, I argued that where it is used simply to facilitate development and is open to abuse, as in Craigburn Farm, it should not be allowed because, once interim development control has been brought in, a developer who has been forewarned (as happened in Craigburn) can walk in within 24 hours and signs seal and deliver something that, regardless of what future decisions are made about the development plan, cannot be undone.

The Liberal Party supported me previously, but now appears to have recanted in that support, and I think the people who live around Craigburn Farm would be interested to see that the lesson has not been learnt. I know for a fact that they will be greatly surprised that the Liberal Party will allow the same sort of thing to happen again. They would be very surprised that their local member, Mr Evans, did not have a little more to say in this matter as he seemed to be so upset at the time.

The Hon. T. Crothers: Are they environmentalists or people with a vested interest? That is the question.

The Hon. M.J. ELLIOTT: All citizens have a vested interest. Amendment No. 26 also relates to the same clause and to the same notion.

In relation to clause 34, where there does not appear to be any replacement, the Liberal Party appears to be doing something quite reasonable in relation to councils that had conflicts of interest. It seems to me that that amendment is now to be removed and, unless the motion has been picked up in another amendment, which I cannot find, that appears to be lost. That was argued so passionately before, and I am indeed surprised that it has disappeared.

I now refer to clause 46, to which quite a suite of amendments was moved in this Chamber, of which only one survived. The one that did survive was an amendment which required public consultation at the beginning of the assessment process. In fact, before the developers commenced working on an EIS I argued that this greatly facilitates development because the developer, very early on, has clearly flagged potential difficulties in two ways. One is simply where a lot of people do not like it, and I suppose there are some political risks associated with that. The other one is simply from within the public. They are people with particular knowledge who bring forward things of which the developer may not be aware. For example, in relation to Jubilee Point, a member of the public, a CSIRO scientist, came up with a lot of information about sand movement. If that information had come before the EIS had even commenced, the developers, if they had used half a brain, would have realised there was a problem and would immediately have sought to change the development. Instead, they spent a lot of time and money pursuing a development that in the long run failed because of that particular problem. That was the biggest single problem at least in relation to that development.

In relation to developments, time and time again if the major problems had been identified early enough a developer would have been saved a lot of time and money and would have a project up which has instead failed. The amendment, as we put it up, has been greatly watered down. As I understand it, there is a great deal more ministerial discretion, and the likelihood of public consultation occurring has virtually been taken away. I have been looking for substantial change to the EIS process.

The Hon. Diana Laidlaw: That is not a fair assessment.

The Hon. M.J. ELLIOTT: I am sorry; that is the way the amendment reads to me.

The Hon. Diana Laidlaw: Yes, but it is not a fair assessment.

The Hon. M.J. ELLIOTT: We will have to agree to disagree. I do not want to make this longer.

The Hon. Diana Laidlaw: You wouldn't even have this here if I had not changed the whole thing on my feet in the debate in this place.

The Hon. M.J. ELLIOTT: I did not say I did not think you were a nice person.

The Hon. Diana Laidlaw: I do not care whether you think I am nice or not. I am just saying that you can at least tell the truth.

The Hon. M.J. ELLIOTT: That is a bit strong. I said my interpretation of it was that it was watered down. I may be wrong. As I said, I am handling this with inadequate time but, after spending 18 months working on the issue as a whole, I have virtually to handle these amendments on the hoof. I look at them and say that I believe they have been watered down in my assessment and that is not meant to upset anybody, even if it has. In fact, there was not only that amendment; there were several other amendments in relation to major projects and in relation to clauses 47 and 48 which promised significant change to the EIS process but those, as best as I can tell, have all simply been withdrawn.

Clause 49 relates to Crown development, which has certainly been the most consistent issue that has been raised with me by all interest groups. In fact, only in the past 24 hours I have heard from groups such as the

Urban Development Institute of Australia, and prior to that every other interest group that I have spoken to all expressed a clear desire that Crown development not have special rules and that it comply with the same rules as everybody else. They recognise that there are minor works which could be exempted by regulation but essentially the Crown powers, although they have a process, do not have the same process as everybody else. It is ultimately controlled by the Minister and what that ultimately means is that Crown development is not bound. We did have one minor amendment to that and once again, as best I can judge, that minor amendment now has been withdrawn. There are a series of others that are withdrawn but I think I have covered the ones that were of greatest interest to me.

In summary, I am disappointed. When the Planning Review was set up I had anticipated that I might be able to spend my political time in doing something other than being involved in arguments about projects which is so time consuming and ultimately non-constructive. I would like to be spending my time getting involved constructively in other issues. Indeed, that is what I tried to do by adopting this Bill as one that I spent a lot of time on over an extended period of time and have been active in following the Planning Review and all the various stages of this Bill. Unfortunately, I can see that in the time ahead I will be caught in this same fruitless debate and that saddens me greatly. I am opposing what the Government and the Opposition have agreed to here. Quite plainly they have the numbers. The point has been made in a series of divisions previously, and I will not be pursuing that path again at this time.

The Hon. DIANA LAIDLAW: There are a number of very brief comments that I wish to make in response to statements made by the Hon. Mr Elliott. I think it is important that we put on record, in terms of the composition of the Development Assessment Commission, that there has been considerable debate within the Party in recent days about the composition of that commission as the Bill left this place. The Liberal Party moved that there be a representative from the Conservation Council, when we were also moving that there be a representative of the National Farmers Federation. That is the form in which we moved the amendment in the other place, and in which we again moved it in this place. In addition, we wanted a person with wide community experience, particularly in the provision of facilities and we were seeking nominations from all of those specific areas.

However, when the Bill left this place there was provision for the Conservation Council—I have no objection to that; in fact, I was a loud advocate for its inclusion in the first place—but we no longer had the National Farmers Federation and it had been the agreement of the Liberal Party in the Party room that with one we should have the other, and I think that was fair and reasonable. When the Bill came out of this place, with one but not the other, it was considered that in those circumstances not to pursue the specific reference to the Conservation Council. So, what we now have is only the Local Government Association being the representative group that is entitled to have a nominated representative on the Development Assessment Commission.

It is important to note that since the Bill was in this place we are no longer prepared to accept that the Local Government Association should put to the Government its sole choice of a person with practical knowledge and experience of local government. Now the Local Government Association will be required to nominate to the Minister the names of three people from whom the Minister will make a choice.

There is provision in clause 13 for the Minister, through newspaper advertising, to seek the names of interested persons with appropriate qualifications and to submit their names for all the positions on the council, other than the Local Government Association position. I would strongly urge the Conservation Council, the NFF, SACOSS and other interested groups and individuals to make the most of that provision. I believe that, as there is a specific requirement in the Bill that a person who has practical knowledge of and experience in environmental management of natural resources be appointed, a person associated with the Conservation Council is more than likely to be appointed. Certainly I believe that would be the case under a Liberal Government. Otherwise, we would not have moved the amendment in the first instance in the other place. There is that consideration about the balance with the NFF that the Party room determined that we had to address.

I would also comment on amendment No. 14 to clause 24. I am particularly pleased that the Minister and the other place have come to terms with the fact that local government should have power, with the approval of the Minister, to address amendments to development plans when two or more councils are involved. I thought that was a particular weakness in the Bill. The matter was addressed in this place last week. I know that the Local Government Association will be pleased to see it, particularly as it is meant to have this understanding with the Government with regard to a more sophisticated arrangement for negotiating the general conduct of business. At least from this place we have ensured that where there are amendments to development plans with adjoining councils the so-called understanding between the Government and local government can be addressed and pursued through amendments to clause 24.

I believe that most of the explanations to the decisions made in the other place were made by the member for Morphett (Mr Oswald). While I am not personally comfortable with all those explanations, I think that they adequately cover the position that has been presented by the Liberal Party. I support that position in terms of the amendments in this place. I have, however, a further amendment to amendment No. 13.

Motion carried.

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

That the Council agree to the alternative amendments made by the House of Assembly.

Motion carried.

Amendment No. 13:

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

That the Council do not insist on its amendment No. 13 and agree to the alternative amendment made by the House of Assembly.

The Hon. DIANA LAIDLAW: I disagree with that motion. I have put on file the following suggested

amendment to the House of Assembly's amendment. I therefore move:

Leave out paragraph (b) of proposed new subclause (3a) and insert new paragraph as follows:

(b) by public advertisement, give notice of the place or places at which copies of the draft are available for inspection (without charge) and purchase and invite interested persons to make written submissions on the proposal within a period specified by the Minister.

Essentially, this amendment overcomes the discretions incorporated in the amendment that came from the House of Assembly. The whole clause, subclause (3a) in particular, provides for consultation where there is a proposal to create or amend the planning strategy. The Democrats and the Liberal Party in this place and in the other place were very firm that there should be public consultation during this process. We moved an amendment in this place that there be a different situation in terms of public consultation where there is a major or minor development.

Since this provision was debated in this place, it has been reconsidered in the House of Assembly. However, the compromise from the House of Assembly is unacceptable to me. There are too many discretions for the Minister to avoid seeking public consultation in any form, either by giving notice of the place or places at which copies of the draft planning strategy are available for inspection or by undertaking consultation which could have included one or two public meetings. My amendment gets rid of those discretions, and I think it more adequately reflects the strong sentiments that were expressed in this place when this provision was before us last week.

The Hon. M.J. ELLIOTT: The Democrats support the amendment. It is an improvement on the alternative amendment which was brought back to this place. The Hon. Ms Laidlaw is correct in saying that the Liberals and the Democrats were astonished that there was no guarantee of any consultation on the planning strategy—the very core of the Development Bill. It is a very powerful document in so far as development plans have to comply with it and the Minister can require that development plans comply with it. As I said, we were astonished that there was no guarantee of any consultation. The Government had done such a good job of consultation the first time around in setting up the Planning Review without agreeing all the fine details. I think that most people would agree that the consultation process the first time around was extremely well done.

However, the Bill originally was silent as to how progress on the strategy would be made from that time forward. The amendments that we passed when the legislation was last in this place spelt out a process. Clearly the Government was not interested in having any sort of process at all and appear, in the first instance, to have watered it down significantly. The Hon. Ms Laidlaw is now recovering some of the ground.

I know that one of the arguments is that sometimes you want to make minor changes to the strategy and you do not want to have to go through this full detail process. Frankly, I think if you have a minor change, it can wait until the next time you have a major change. As soon as you start offering discretions of this sort, they keep on being abused.

The Hon. Diana Laidlaw: You offered no discretion in your original amendments.

The Hon. M.J. ELLIOTT: That is right, I offered no discretions and I offer no apologies for offering no discretions. Frankly, if it is a minor change to the strategy, it is something that can wait, because it is not important. If it is important then there should be a prescribed consultation process. Unfortunately, we do have some prescription in so far as there will now be a necessity for public advertisement, but the process is nowhere near as spelt out as we originally sought to do. Nevertheless, I support the amendment because it is certainly far better than what the Government had been offering to us previously.

The Hon. C.J. SUMNER: The Government accepts the amendment.

Hon. C.J. Sumner's motion that amendment No. 13 be not insisted on carried.

Hon. Diana Laidlaw's amendment carried; alternative amendment as amended carried.

JOINT COMMITTEE ON PARLIAMENTARY PRIVILEGE

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

That the members of this Council appointed to the Joint Committee on Parliamentary Privilege have power to act on the committee during the recess.

Motion carried.

DRIED FRUITS BILL

Adjourned debate on second reading.

(Continued from 30 April. Page 2236.)

The Hon. BARBARA WIESE (Minister of Transport Development): I would like to thank the Hon. Mr Dunn for his contribution to this debate and for the support that he has indicated for this legislative measure.

Bill read a second time.

In Committee.

Clause 1—'Short title.'

The Hon. PETER DUNN: Since this Bill has been in the Council I have seen some figures on incomes for people living in the River Murray area and have noticed how low they are. The average income for a family is under $12 000. 1 thought that was very significant because this Bill is dealing with the livelihood of a lot of those people. I hope and pray that this Bill will increase their income somewhat and that the public will see fit to buy the Australian product—the product that this Bill talks about—and be prepared to pay a fair price for it, because if we do not we will lose the whole industry.

Clause passed.

Remaining clauses (2 to 41), schedule and title passed.

Bill read a third time and passed.

HARBORS AND NAVIGATION BILL

Returned from the House of Assembly with the following amendments:

No. 1 Page 4, lines 24 (clause 4)—Leave out paragraph (c) and insert new paragraph as follows:

(c) a surf board, wind surf board, motorised jet ski, water skis or other similar device on which a person rides through water;

No. 2 Page 12, after line 10—Insert new heading and clause as follows:

DIVISION 6—RATEABILITY OF LAND

Rateability of land

20. (1) Subject to subsection (2), land vested in the Crown under this Act is not rateable under the Local Government Act 1934.

(2) If any such land is occupied under a lease or licence by some person other than the Crown or an instrumentality or agency of the Crown, that person is liable as occupier of the land to rates levied under the Local Government Act 1934.

No. 3 Page 45, after line 25—Insert new clause as follows:

Regulations

91. (1) The Governor may make regulations for the purposes of this Act.

(2) The regulations may, for example—

(a) provide for the management of harbours and the admission and removal of vessels from them;

(b) regulate the mooring or anchorage of vessels;

(c) empower an authorised person to take action to move and secure any vessel that has not been anchored or moored in accordance with the regulations;

(d) regulate the loading, unloading, carriage or handling of goods, making any special provisions that may be necessary or desirable in relation to dangerous goods or any other particular class of goods;

(e) regulate the storage of goods, making any special provision that may be necessary or desirable for the storage of dangerous goods or any other particular class of goods;

(f) require the use of lights or signals to minimise the risk of collisions in harbours;

(g) make any provision necessary or desirable to secure safety and good order in harbours or on harbor facilities or otherwise within the jurisdiction;

(h) regulate the navigation of vessels within the jurisdiction;

(i) impose rules to regulate navigation within the jurisdiction, to prevent collisions and to improve safety;

(j) regulate the use of hire-and-drive vessels;

(k) require the lighting and marking of vessels and of structures situated in or in the vicinity of navigable waters;

(l) require the master or agent of every vessel or of every vessel of a specified class to announce the arrival of the vessel in a harbor;

(m) require information as to goods to be loaded or unloaded to be kept and provided by the master or owner of a vessel or shipping agents, regulate the form in which the information is to be provided, and fix civil or criminal penalties for failing to provide the required information within the time allowed by the regulations;

(n) require information as to pilotage to be kept and provided by the master or pilot of a vessel;

(o) limiting the Minister's liability for loss of, or damage to, goods occurring while the goods are in the Minister's custody or the Minister is otherwise responsible for the goods;

(p) regulate, restrict or prohibit parking, or otherwise control traffic, on or in the vicinity of land or any structure under the care, control and management of the Minister;

(q) require that specified equipment be carried by, or fitted to, vessels of a specified class;

(r) declare any part of the jurisdiction to be a speed zone and impose a speed limit for that zone or otherwise impose speed limits in any part of the jurisdiction;

(s) regulate, restrict or prohibit the discharge of pollutants into waters within the jurisdiction or make any other provision to prevent or reduce pollution;

(t) place limits on the mass or volume of cargo that may be carried by a vessel or the number of passengers and crew or otherwise regulate the loading of vessels;

(u) provide for the designation of parts of wharfs or harbor facilities as restricted areas, and empower authorised persons to direct persons not to enter, or to leave, a restricted area;

(v) place limits on the mass of vehicles on or in the vicinity of land, or any structure, under the care, control and management of the Minister;

(w) require and regulate the reporting of accidents on or in the vicinity of land or any structure under the care, control and management of the Minister;

(x) regulate, restrict or prohibit the deposit of waste on or in the vicinity of land or any structure under the care, control or management of the Minister;

(y) regulate trade, advertisement or other commercial or recreational activity on or in the vicinity of land or any structure under the care, control and management of the Minister;

(z) regulate, restrict or prohibit the carriage of dangerous cargoes;

(aa) regulate the form or manner of any application under this Act and require documents or information to accompany such application;

(ab) regulate the transfer of registration of a vessel or the transfer of a licence to carry on a business of hiring out vessels under this Act;

(ac) fix fees to be paid in respect of any matter under this Act and regulate the recovery, waiving or reduction of such fees;

(ad) fix and impose a levy to be paid (in addition to the registration fee) on the registration or renewal of the registration of a power-driven recreational vessel and provide for the revenue derived from the levy to be paid into a special fund to be used for the purpose of establishing, maintaining and improving recreational boating facilities;

(ae) fix and impose a levy in respect of commercial fishing vessels, provide for the payment and recovery of the levy, and provide for the revenue derived from the levy to be paid into a special fund to be used for the purpose of establishing, maintaining and improving facilities for commercial fishing vessels;

(at) provide for a committee (with a majority of members nominated by relevant interest groups) to advise the Minister on the amounts of the levies imposed under paragraphs (ad) and (ae) and the application of the special funds established under those paragraphs;

(ag) fix default charges to be paid if an amount payable under this Act is not paid within a time allowed by the regulations for payment;

(ah) make provisions in relation to evidence in proceedings for an offence against the regulations;

(ai) exempt (conditionally or unconditionally) specified persons or vessels or persons or vessels of a specified class, from the provisions, or any specified provisions, of this Act.

(3) A regulation may be of general or limited application according to the class of vessels to which it applies, the area in which it applies, the circumstances of its application, or any other specified factor.

(4) A regulation may confer discretionary powers on the Minister, the CEO or an authorised person.

(5) The regulations may incorporate or operate by reference to a code or standard published by a specified authority as in force at a specified time or as in force from time to time.

(6) If a code or standard is referred to or incorporated in the regulations—

(a) a copy of the code or standard must be kept available for inspection by members of the public, without charge and during normal office hours, at an office or offices specified in the regulations;

and

(b) evidence of the contents of the code or standard may be given in any legal proceedings by production of a document apparently certified by the Minister to be a true copy of the code or standard.

(7) A regulation may impose a penalty, not exceeding a division 6 fine, for contravention of or non-compliance with the regulation.

Consideration in Committee.

Amendments Nos 1 to 3:

The Hon. BARBARA WIESE: I move:

That the House of Assembly's amendments Nos 1 to 3 be agreed to.

I point out to the Committee that amendments Nos 2 and 3 relate to money clauses. The first amendment that has been made by the House of Assembly relates to a matter that was raised in debate in this Chamber when the Bill was first considered. Members will recall that the Hon. Ms Laidlaw raised concerns about the clause as it was then drafted because it made provision for regulation of certain devices that are used by people in the water, and was being made at the request of local councils which often have problems with such things as motorised jet skis and other such devices in waters under their control. However, I think that members of the Council felt that, as originally drafted, it was so general in its terminology that it could cover almost any device that one might imagine, including such things as flotation devices or water wings, and that this was going too far.

The Government agreed with the sentiments expressed here, and agreement was reached in this Chamber that such devices could be prescribed by regulation. Once we had carried amendments to that effect, we discovered, on closer examination of the legislation, that in fact it was not possible by regulation to prescribe these devices. For that reason an amendment was moved in another place to cover those devices which have been the subject of consideration in the past. That is the amendment No. 1 that is now before us, and I believe that this is the best possible amendment we can make at this time and I commend it to the Committee.

The Hon. DIANA LAIDLAW: I support the amendments.

Motion carried.

LIQUOR LICENSING (FEES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 28 April. Page 2135.)

The Hon. J.C. BURDETT: When I spoke to the Liquor Licensing (Fees) Amendment Bill on 10 September 1992 I said:

I rise to speak to the Bill without any enthusiasm because it imposes a further impost on an industry which, through no fault of its own, has been in trouble and has been known to be in trouble. It has been in trouble because of the recession, largely brought about through the actions of the Federal Labor

Government and the actions of the State Labor Government which the Opposition opposed with the .05 legislation that is enacted in order to attract Federal funding.

This Bill completely reverses the previous Bill after only eight months—and one wonders why. However, I enthusiastically support this Bill, while querying the competence of a Government which can do such a U turn in only eight months when all the relevant factors were known then and had been made known to the Government by the liquor industry and the Opposition.

The Hon. K.T. Griffin: Because they don't know where they're going.

The Hon. J.C. BURDETT: Exactly—didn't know whether it was a U turn or what it was. It must be almost unprecedented for a Government to increase a taxing measure and then reverse it within eight months when nothing has changed. The plight of the hotel and hospitality industry was just as parlous then as it is now. The previous Bill increased the licensing fee from 11 per cent to 13 per cent and this Bill brings it back to 11 per cent.

The previous Bill was unresearched and insensitive. It did not take into account the artificial period in respect of which the licensing fee must be imposed for constitutional reasons and opposed by amendment to overcome the further adverse effects of this. The Hon. Mr Elliott also declined to support the amendment. But at last the Government has got the message: you cannot raise taxes from businesses which are fighting for survival and consumers who are already hard hit. It has got the message in the Bill. How long will it take to get through to others?

The Bill comprises one clause apart from the usual two formal clauses. With regard to the second of these, one notes that the Bill will come into operation on 1 October 1993. The remaining clause substitutes 11 per cent, which is what it was before, for 13 per cent, which it never should have been. This Bill reverses one of the many aberrations of this Government, and I suppose we should be grateful for small mercies. I support the second reading of the Bill.

The Hon. BARBARA WIESE (Minister of Transport Development): I would like to thank the honourable member for his contribution and support for the legislation. However, I should point out that the Bill, which has been introduced at this time, is certainly to reverse a decision which was taken some months ago. But it is important to note that the decision that was taken some months ago was taken with the view to harmonising (which was a very popular word at that time) with fees that were to be charged by other States in Australia. As it turned out, the other States in Australia did not lift their liquor licensing fees as it was expected, and for that reason the Government is now reversing the decision that we took in order that there will be harmonisation again. So, the comments that were made by the honourable member were not very fair, and he should be congratulating the Government that we are reducing the burden on the liquor industry at this time.

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

EDUCATION (TRUANCY) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 30 April. Page 2240.)

The Hon. C.J. SUMNER (Attorney-General): The Hon. Mr Lucas raised a number of questions in relation to this Bill which I will attempt to answer. In particular, he raised questions regarding the second major amendment relating to the redefinition of 'authorised officers' and the new powers conferred on those officers when dealing with truanting children located in a public place. The first issue is the extended definition of 'authorised officers'. One amendment to section 80 extends the range of persons now classified as authorised officers by extending under section 80(c) a responsibility to any member of the teaching service, thereby including all teachers appointed as officers to the teaching profession, pursuant to section 15(1) of the Education Act. In other words, all teachers appointed as officers to the teaching profession will now be, under the Government's proposal, authorised officers under the legislation.

The justification for this amendment is that it is philosophically in keeping with the decision to remove truancy as an offence against the child. Under the current legislation, the main responsibility for responding to truanting children located in a public place resides with police officers, while Education Department responsibility is limited to only a very small number of attendance officers. Given that it is the task of police to deal with illegal behaviour, this balance of responsibility is appropriate only as long as truancy remains an offence. Once truancy ceases to be regarded as illegal behaviour on the part of the child, police involvement is less justifiable. Instead, the onus should appropriately be transferred to teachers, particularly since they are the front line workers with children and have primary responsibility for the education of young persons.

The Hon. Mr Lucas also expressed concern about the substantial number of teachers who will now be involved, and he cited a figure of 20 000. While this may certainly introduce some implementation difficulties, these can be overcome by the development of clear administrative guidelines and policies.

Moreover, the advantages far outweigh the disadvantages. Evidence placed before the select committee in another place suggested that, in many areas of South Australia, the truancy problem was out of hand, and certainly was not being dealt with effectively under the existing system. The very small number of attendance officers employed by the Education Department was cited as a contributor to the problem. This situation should be improved by significantly increasing the numbers of people who have responsibility for responding to truanting children.

The second issue was the extended powers conferred on authorised officers, which involves the authorised officers being able to take the child into custody and return the child to someone in authority at the school or to a parent or guardian of the child. That power is not available to authorised officers under the current Act. Instead, they are able to do no more than approach the young person and seek information regarding that young

person's name and address, age and the reason for non-attendance at school.

The justification for this amendment is that evidence presented to the select committee from parents, local business people etc., indicated frustration that young people were able to hang around local shopping centres during school hours, with no action being taken to either approach these youths or redirect them back to school. The link between these young people's presence on the streets and offending behaviour was also stressed.

The select committee's recommendation to give authorised officers more powers when dealing with these young people was motivated by such evidence. It was also in keeping with the committee's concern to ensure that inappropriate behaviour, whether it be offending or truanting, should receive both an immediate and effective response.

Concerns expressed by the Institute of Teachers as cited by the Hon. Mr Lucas are based on an element of misunderstanding. According to the institute, the amendment will mean that members 'would be obliged to approach all children of apparent school age not in attendance at school during school hours'. Such action would, they argue, be dangerous, burdensome and unworkable. However, the Bill avoids placing any mandatory obligations on authorised officers. Instead, it stipulates that these officers may take the child into custody, just as under the current Act, and may approach the child for personal details.

Clearly, teachers, along with other authorised officers, will be required to use their own judgment and discretion regarding the advisability of trying to remove aggressive young persons from a public place. They will therefore be able to avoid any situation which will potentially place them in physical danger. It should also be noted that, if the situation arises, school teachers will be able to call in the police to handle the situation, thus giving them an added level of protection. However, given that truancy is no longer an offence, involvement of the police should be avoided wherever possible.

Other questions raised by the institute, such as whether teachers who were sick or on leave would be required to respond to truanting children, can be resolved by the development of appropriate administrative guidelines and policies. Again, because the Bill uses the term 'may' rather than 'shall', it will be possible to specify in operational guidelines those conditions under which it would be inappropriate to invoke the power to remove young truants. In effect, the Bill sets an important policy direction. The details of how that policy is subsequently implemented can be specified administratively.

Bill read a second time.

YOUNG OFFENDERS BILL

Adjourned debate on second reading.

(Continued from 4 May. Page 2297.)

The Hon. I. GILFILLAN: The Democrats support the second reading of this Bill. There are many aspects of it, and the general move for a reappraisal of dealing with young offenders in our system is welcomed. I have already indicated in a public forum, particularly the family forum, the Democrats' support for the initiatives, the scope for a more personal and productive interface between police officers and offenders, the wider recognition of victims and the potential for reconciliation through the processes outlined in the Bill.

However, there are two or three specific areas in which we have profound concern, and the Democrats will be moving amendments with respect to them. In the case of compensatory orders against parents (clause 52), we are implacably opposed to the whole principle and will vote against it.

Briefly, I refer to the implication of the Bill. The move to accept police officers dealing with a young offender who has admitted an offence, and for which the police officer can give an informal caution, we welcome. We believe there are many officers in the Police Force who are well capable of making a meaningful and productive relationship between themselves and the young persons who have been caught and admitted to having committed an offence.

This goes against what I think has built up as the culture of implacable hostility between the young on the wrong side of the law and the police, and we are all quite familiar with the epithets and abuse which the young and that ilk throw at police officers. However, I have met many in the force who are dedicated to overcoming that. The blue light discos and blue light camps that have been organised by the police are just two of the well-known examples where members of our Police Force have gone beyond the call of their duty to make an effort for a productive, caring human relationship between themselves and the offenders.

An informal caution, which really has a tone of a responsible caring parental/child relationship, or perhaps one should say 'avuncular', does have scope for achieving some very good results. From a cursory glance at some amendments of the Opposition, I note that the Liberal Party is seeking to have the informal cautions recorded, if I understand accurately the implication of its amendments. That would be unfortunate, as I regard the informal cautions in the same category as I would in a wider family context a senior member verbally chastising an offending younger member. It is on that basis that I believe informal cautions will bear their best result.

Formal cautions are a different matter. They are different in two important categories. One is the seriousness of the formal caution, the accompanying formality and the extra powers that are granted to a police officer in the process of these formal cautions. There lies the first major objection that the Democrats have to the contents of the Bill. It is a profound change and an unwelcome increase in responsibility for a police officer to be empowered to determine the penalty for an offence. It really does not stretch it too far to indicate that it is on a parity with a single police officer virtually being judge and jury in a trial when it goes from the finding of guilt to the sentencing stage.

There are two other similar powers to that, one being the officer requiring the youth to enter into an undertaking to pay compensation to the victim. One can imagine that the detail of that would involve the amount and the method of payment. This requires an awareness, a sensitivity and knowledge which we do not believe any police officer should be expected to acquire and then have the responsibility to administer. Although we

support the right of the officer to require the youth to apologise to the victim, the wording in the Bill, 'or to do anything else that may be appropriate in the circumstances of the case', is far too open ended. Certainly, from the legislation there is no indication what that may cover, and in his second reading reply the Attorney may expand on what the Government has in mind, or the intention of the select committee may be spelt out. Regardless of that, the Bill is the Bill and it is the words that are in it, 'or to do anything else that may be appropriate', that apply. The judge of what is appropriate and not appropriate is the police officer.

It is clear to me from private conversations I have had with police officers that they do not want this; in fact, they are horrified at the thought of having these responsibilities loaded onto them. They are bound; the police association, SAPOL, will not be making official comments on it as it is not its policy. It thinks it improper for it to comment on legislation dealing with the matter, but I believe that, if there were to be a poll of the current serving police officers, these extra powers would be rejected out of hand. Of course, this is after the police officer has had the power to choose whether or not the young offender who has admitted guilt should be treated in this way. Clause 7(3)(b) provides that, if in the opinion of the police officer the matter cannot be adequately dealt with by the officer or a family conference because of the youth's repeated offending or some other circumstance of aggravation, a charge can be laid.

We can see from that that it is the police office who has been involved in the circumstance who makes the decision as to whether he or she deals with this matter by way of an informal caution, a formal caution or a family conference or whether it is passed on for a charge to be laid and formal court action to take place. All this not only leaves the police officers with an enormous responsibility for which I do not believe they are properly trained or equipped but also leaves scope for abuse. There can be innocent error and there can also be subjective prejudice, where some animosity may have been built up which will be shown in the way the police officer deals with the particular circumstances of the offender.

The family conference is admirable. The criticisms I have made of the formal cautions specifically do not apply to the family conference; a youth justice coordinator, a person with a significant appointment for a term not exceeding three years, but obviously chosen as being competent to lead the family conference, is involved. Under those circumstances, I have nothing but praise for the concept of family conference and look forward to the benefits that will flow from it. I believe that the sorts of penalties that we have been discussing and the capacity for victims and offenders with their accompanying families, if appropriate—the scope for well conducted conferences and meetings of those people—offer substantial opportunities for the reform of the offender and healing of the victim, and that does not apply under our current system.

The other matters involved in the Bill will be drawn out in detail in the Committee stage and, although the shadow Attorney, Mr Griffin, has amendments on file, I have not yet assessed many of them, so it is not possible for me to comment on them or assess them in my second reading contribution, but it does seem, from just flicking through them and picking up the odd observation as I go through, that there is an extraordinary anomaly in clause 26—'Limitation on court's power to require bond.' This clause provides under subclause (1) that the court may not, in the exercise of its power to sentence a youth for an offence, require the youth to enter into a bond. Subclause (2) provides that the court may, however, by order of the court, impose an obligation of the kind that might otherwise have been imposed under a bond. I would have thought that a bond is a bond is a bond. If we impose an obligation of a kind that might otherwise have been imposed under a bond, what is the difference between that and a bond?

I now move to my particular anathema, that is, compensatory orders against parents. Clause 52(1) provides that, if a youth, by committing an offence, causes injury, loss or damage, the court may, on the application of a victim of the offence, order a parent of the youth to pay compensation for the injury, loss or damage. Clause 52(2) provides that an order cannot be made under this section unless the youth has been convicted or found guilty of the offence by the court or some other court of competent jurisdiction, or the court is satisfied of the youth's guilt beyond reasonable doubt. That may be legally quite tenable but, as a ground then for slugging the unfortunate parents of the youth on that basis, I feel very ill at ease about the way that is framed.

Subclause (3) provides that it is a defence to a claim against a parent under this section to prove that the parent generally exercised so far as reasonably practicable in the circumstances an appropriate level of supervision and control over the youth's activities. I find that totally reprehensible as a basis of law and, although subclause (4) has some regard to the likely effect of the order on the family to which the youth and the parent belong, that, to me, is not the point which is generally enshrined in this particular clause, and that is the principle. Subclause (5) provides:

> A parent against whom an order for compensation is sought under this section may appear personally or by counsel before the court and call evidence or make representations on any subject relevant to the parent's liability or the amount of that liability.

That really defies imagination. It means, in effect, that a parent in these circumstances is virtually to be tried on the quality of the parenting. Any of us who have had experience as parents know that the quality of parenting is virtually indefinable. It is like trying to prove whether or not you in fact love your wife, your husband or your partner. They cannot be proven in the very essence of the context. How does one determine good, poor or indifferent parenting? What are the criteria? What is the product at the end of it?

What I consider to be horrific side effects may well apply in families which have nothing to do with juveniles having been involved in committing offences or having been found guilty of doing so, but by virtue of this legislation relationships which do not reflect what I would see as optimal or acceptable parent-child relationships degenerate into a hostile stand-off in which a parent who suspects that a child may, out of spite or in some way, irresponsibly commit an offence for which he

or she then would be answerable will impose, or seek to impose, draconian disciplinary measures on that child.

Likewise, a child or a potential young offender, as many do from time to time, feeling a sense of rebellion against the parent, would attempt to concoct the circumstances in which that parent would be liable for damages. It is totally unacceptable to introduce either of those scenarios into the family climate in South Australia. What is worse, if anything can be worse than that, there would be no reduction in the number of juvenile offences.

The Hon. C.J. Sumner: It might help the victims.

The Hon. I. GILFILLAN: If the Attorney is so keen on helping the victims, knowing his track record, why does he not increase the levy on every offender across the State and provide the funds from that source? The logic that that might help the victim does not attach to this clause in essence at all. If the Attorney's aim is to find compensation for a victim, then let him pursue it down some other avenue, but he should not put parenting at risk by bringing this totally abusive measure into the concept of what is good, fair or indifferent parenting.

One organisation that has made representations to me on those matters is the Youth Affairs Council of South Australia, and its executive officer Kym Davey wrote a paper on this legislation which he was good enough to send to me. I do not intend to read the whole paper, but it is important to underline that YACSA strongly endorses and welcomes the vast majority of the initiatives of the select committee and the legislation.

However, where it comes to police powers, due process and parental liability they state:

POLICE POWERS AND DUE PROCESS— A primary feature of the proposed new system is the central role to be played by police. Essentially this will take the form of a two tiered system of cautions, the informal ticking off for very minor infringements to the formal caution with a penalty to be imposed by a police officer. This warning with penalty is one of the first concerns we have with the current version of the Young Offenders Bill. Whilst YACSA supports the informal and formal cautions, we maintain that warnings should not attract penalties. Penalties should properly be the jurisdiction of the new Youth Court and other sanctions worked out through the family group conference. In addition to considerations of consistency and equity, the fundamental issue remains the appropriate limit of the police role. Police will also have the power to decide how an offence will be handled. Section 7(3) allows a police officer to decide whether a matter should proceed directly to court. There is no requirement that this decision be made before taking statements and getting a signed admission from the young person. Admissions made by young people to police in the expectation that the matter will be dealt with by way of caution or family conference should not, therefore, be admissible as evidence in any subsequent court proceedings concerning the same alleged offence. The young person may have made the admission solely to dispose of the matter quickly, rather than dispute it in court. It would not be safe to allow the court to rely on a record of interview or admission, whether signed or unsigned, in these circumstances.

To compound the problem, section 58(2) would allow any such admission to be used as evidence of prior offending. Such a change would elevate a formal caution to the status of previous judicial finding, without that process having taken place, and without right of appeal.

In circumstances where police are empowered to require a young person to apologise to the victim of an offence, there is no safeguard to ensure that this will occur in the presence of responsible adults. This may lead to situations placing one or both parties at risk, and thereby directly contradicts the select committee's recommendation that offender and victim not be brought together before a matter is determined.

One other proposal deserves close attention in the consideration of appropriate police powers. The Children's Protection Bill has not yet come before the Parliament. However, the select committee has recommended that it include a clause to allow police to remove a child considered to be at risk, without the current provision requiring that the child be brought before a magistrate for an 'in need of care' hearing. Essentially, this would allow a care issue to be dealt with using summary police powers. Removal (or is arrest?) of young people who have committed no offence from public places is likely to lead to confrontation, and possibly resisting arrest and assault charges. The Aboriginal community has argued strongly that such situations are likely to occur, and points out the safety implications involved in removing young people from one environment to another.

I turn now to the reference to parental liability, as follows:

One of the fundamental propositions put by the select committee is that young people should be held directly accountable for their own actions. Holding parents liable for their children's behaviour undercuts that responsibility and accountability. In so doing, the legislation works against the basic principle of criminal collaboration, that is, that a person should not be held responsible for the actions of another if that person has no prior knowledge that an offence is to be committed.

Section 52(3) cites the exercise of an appropriate level of supervision and control over the youth's activities. Yet in two separate judgments as recently as 1989, the Chief Justice of South Australia stated clearly that there are no readily recognisable standards of parental supervision. Unlike standards which can be identified for driving a car, there are major problems in determining parenting capacities. Arguments over the appropriate level of supervision would involve lengthy assessment processes, providing a field day for lawyers and resulting in protracted and bitter proceedings.

At a community level, we believe that compensatory orders will heighten tension and conflict in families experiencing difficulties. This may well provoke violence against children from parents who are threatened with or held liable—in turn leading to further family breakdown and homelessness.

In setting the Standard Minimum Rules for the Administration of Juvenile Justice in 1985 the United Nations rejected the concept of parental liability on the grounds that offenders must be made to take responsibility for their own actions. The South Australian Parliament has yet to make a strong case for its introduction.

The next section of the paper is headed 'Prevention is the Key'. I do not intend to dwell on that, but I emphasise for the Council that I endorse the initiative from the select committee, as emphasised in this paper, that we must, as a matter of priority, be looking for prevention. I believe that this is a potential area where we can achieve much in reducing the cause and needs for these processes to deal with young offenders.

In conclusion, I outline that I have asked Parliamentary Counsel to draft a couple of amendments. One relates to

the reporting on the performance of this procedure under clause 56 'Functions of the advisory committee', which provides:

(1) The functions of the advisory committee are to—

(a) monitor and evaluate the administration and operation of this Act;

I will be moving, after the word 'Act', to insert 'including the administration of formal cautions' or words to that effect, because I believe that we need an assessment of how this measure is working. In particular, even if I am entirely successful with my amendments to take the undesirable teeth out, formal cautions will be a very significant part of the treatment of young offenders and it is important to emphasise that be fully reported on by the advisory committee. Informal cautions will be, to a certain extent, difficult to report on. They are, by their nature, a semi-confidential person-to-person situation and hard statistics will tell little. It may be an area in which the personal reports of the police officers involved and the FACS personnel (the people who are dealing with young offenders) may be able to make a contribution. I will not be too phased if there is not a formalised process of assessment reporting on informal cautions because I believe it is very much a human subjective assessment that would be made. I welcome the potential for the good that they can do but I will not be demanding that they be tabulated and recorded as a mechanistic process of a court.

Clause 59(1), dealing with prior offences, provides:

If a person has been dealt with under this Act by a police officer or a family conference, and the question of prior offences subsequently arises in proceedings relating to offences committed by that person as an adult, the offences for which the person was dealt with by the police officer or family conference will be disregarded.

We do not have any problem with that. Subclause (2) provides:

Records of admissions of guilt on the basis of which a youth was dealt with by a police officer or family conference under this Act are admissible as evidence of prior offending in subsequent proceedings relating to offences committed before the youth reached 18 years of age.

I am concerned that, unless there is specific instruction otherwise, these records of admission of guilt dealt with by a police officer or family conference ought not to have the same status as cases or incidents which have been dealt with formally by a court. I will be seeking to add a further subclause, which will read something like this: 'Evidence of admissions of guilt referred to in subclause (2) shall be given less weight than evidence of a prior court conviction when sentence is being determined by a court.'

I indicated before that we will be opposing the clause dealing with compensatory orders against parents in total; we believe that it is unamendable. It is a basic principle objection that we have and there is no way that can be tinkered with. I do want to close on a positive note. I think that it has been a worthy attempt to improve the way that juvenile offenders are dealt with in our system and it does have the Democrats' enthusiastic support for most of its initiatives. I believe that the amendments that we want to make, if successful, would make very little, in fact I would say no, difference to the potential benefits that could come from this and supporting legislation. I support the second reading.

The Hon. C.J. SUMNER (Attorney-General): I thank members for their contributions. The Hon. Mr Griffin has raised several matters to which I want to respond. The honourable member rightly points out that the select committee made many recommendations in relation to non-legislative initiatives. Our priority is to get legislation in place which provides the framework for the formal part of the juvenile justice system.

Once this is done the Government will turn its attention to other matters. I should say that a number of the other recommendations related to the prevention of crime, and juvenile crime in particular, as was mentioned by the Hon. Mr Gilfillan, and the Government has had a very active program in that area over the past four years. Certainly, it has been the most active in Australia and one that has now been used as a model for the development of crime prevention policies elsewhere in the country. So, that aspect of the report certainly has not been ignored and, indeed, the Government's action in this area is in advance of the report's recommendations, although the report probably referred to some more specific matters that can be looked at. However, the principle of crime prevention adopted by this Government certainly predates the select committee's findings.

The Hon. Mr Griffin has asked how the police cautioning will operate. The police have been working on this. I have a draft of what they are working on, and I can make it available to the honourable member if he is interested. It is still subject to revision and may need to be revised in light of how the legislation turns out. The Hon. Mr Griffin has asked what is meant by no official record of an informal caution being kept. This provision merely reflects the present practice. When an alleged offender, whether an adult or a youth, is informally cautioned by the police, no formal record is kept of that caution.

The police note the particulars and the brief circumstances of the alleged offence in their notebook or patrol log. This information is then kept as operational intelligence and can be flagged to operational police if an offender appears to have been dealt with by an informal caution on a number of occasions. If he or she comes to police attention on a subsequent occasion, he or she can be dealt with more formally.

I might add that the only reason that it is necessary to refer to informal cautions in this Bill is to make clear that the police can still issue informal cautions. It might be argued that, if the Bill referred only to the formal cautioning system, this was the only system that the police could use. This would of course be highly undesirable. The police informally caution people every day of the week, and it would be most unfortunate if all those alleged minor offenders were brought formally into the criminal justice system.

The Hon. Mr Griffin considers that the parents should be involved in the negotiations leading up to an undertaking as part of the formal cautioning system. The Government agrees with the honourable member and was pleased to agree to the amendment that is now at clause 8(3) moved by the Opposition in another place which, in

combination with clause 8(2), provides for parental involvement. The honourable member queries what is covered by the words 'anything else that may be appropriate in the circumstances of the case' in clauses 8(1)(c) and 12(1)(d). This is a general catch-all phrase that will cover anything that may be appropriate.

It could be an educational course. Even reading a book could, I imagine, be considered of benefit to a young offender. A requirement to attend school could also be regarded as appropriate. The idea is to provide for the maximum flexibility within the constraints imposed by clauses 8(4) and 12(2). To suggest that the police could require a young offender to do anything unlawful is strange, in view of the oath that all police officers take.

The Hon. Mr Gilfillan asked about the level of training and qualifications of youth justice coordinators. New Zealand experience demonstrates that it is not necessarily academic qualifications that make a successful coordinator. The person has to possess good interpersonal skills and mediation abilities. If specific qualifications are required, persons who would be desirable as coordinators may be excluded. This would particularly apply to members of the Aboriginal community.

The honourable member points out that clause 13 does not provide for parents or guardians to be informed of an alleged young offender's arrest with a view to ensuring that they are present during any interrogation. The Summary Offences Act makes provision for this, the relevant section being 79a.

The Hon. Mr Griffin questions the resources that will be made available for community work and the type of work that will be available. The select committee agreed, and the Government agrees, that the widest range of community work must be available. To this end, the Bill debureaucratises the process by allowing a range of voluntary agencies to participate in offering and supervising community work. FACS no longer has primary responsibility for providing community service programs. Instead, police, youth justice coordinators and the Youth Court can liaise with and make independent arrangements for the provision of community work. The intention is to increase the participation by local communities in crime prevention and to get them involved with young offenders.

The honourable member will also note that clause 49(2) provides that, whenever the court orders community service, it must nominate an appropriate person to certify to the court the satisfactory completion of the community service. This person does not need to come from a Government department, but may, for example, be a member of a local organisation. This will ensure that the court has maximum flexibility in organising CSOs, but will retain an appropriate level of control.

The honourable member refers to what he regards as deficiencies in the provisions relating to the reporting of the Juvenile Justice Advisory Committee. The reporting provisions are the same as the provisions which currently apply to the Children's Court. I do not think it is appropriate for reports prepared at the request of the Attorney-General to be tabled in Parliament in these circumstances. While the reports will normally be unremarkable, there may be some that could not appropriately be tabled in Parliament. It may be that a particular case has been examined, or suchlike, though that is hard to imagine. In most cases I would assume that the committee would note in its annual report that it had prepared a report at the request of the Attorney-General on, for example, whether courts should be opened or closed, that being one topic on which I remember asking the committee to report to me previously.

The honourable member suggests that the committee should monitor the police cautioning system. Clause 56 refers to the operation of the Act. I think that this includes the operation of the cautioning system which is established by the Act and no amendment is necessary.

I note that the honourable member opposes the concept of parental liability. This issue has been canvassed on previous occasions in this place, and I merely note that the select committee supported the concept, as did a previous select committee and as has the House of Assembly on a number of occasions in the past.

The honourable member suggests that the definition of 'minor offence' is vague and asks what guidelines are proposed. As the honourable member is aware, it is very difficult to come up with a satisfactory definition of 'minor offence'. Some summary offences can be far from minor while some indictable offences can be quite minor. The definition in the Bill sets the parameters, and police guidelines will flesh these out; and, as I mentioned earlier, the police are working on these and they are contained in the draft to which I referred earlier, and which I have already made available to the honourable member.

The honourable member asks what adaptations and modifications to other legislation are likely to be made relating to criminal investigation, bail and so on. No such modifications are proposed at present or in the foreseeable future. This provision is included out of an abundance of caution. Section 9(5) of the present Act provides that the Justices Act applies with necessary modifications. This new provision goes that little bit further and allows for the modifications to be set out in the regulations. It is preferable that the necessary modifications be set out in the regulations rather than different modifications being applied on different occasions. I might add that I do not expect any regulations to be made. If there is a problem, it would, as has been done in the past, be fixed by legislation. However, there may be problems that arise when Parliament is not sitting. I think that the need to use the provision is remote.

The honourable member queries how the provisions of clause 37(7) will operate. This clause is identical to the existing provisions in the Children's Protection and Young Offenders Act which have not caused any problems during its 15 years of operation. If the honourable member wishes to move an amendment, I will be happy to consider it.

The honourable member queries whether the review under clause 39 should be at three-monthly intervals. The select committee deliberately extended the maximum period of review from three months to six months to prevent applications being made too frequently or too early for release. This does not mean that the young offender's progress is not being monitored on a regular

basis by training centre staff. Moreover, the board can review a case at any time on the request of the Director-General.

Clause 60 is exactly the same as the existing provision in the Children's Protection and Young Offenders Act. Searching of children is carried out under strict guidelines. This section has caused no problems to date.

Bill read a second time.

YOUTH COURT BILL

Adjourned debate on second reading.

(Continued from 4 May. Page 2299.)

The Hon. C.J. SUMNER (Attorney-General): In response to the Hon. Mr Griffin's comments, a query was raised as to why Youth Court judges and magistrates would be appointed for a limited term. The select committee unanimously recommended that there should be rotation of the judiciary in the Youth Court, and the Government agrees. The problems adverted to in the Chief Justice's letter have been overcome by providing that only the principal judiciary will have a restricted appointment.

The other point raised by the Chief Justice was that it would be a disincentive for people seeking judicial appointments to the District Court to be required to serve in the Youth Court for periods of five years. This does not hold much water because since 1981, at least—I did not know it was 1981 but certainly during my time—all persons appointed to the District Court have been required to undertake to hear cases in any jurisdiction in which they may lawfully be asked to sit. This includes the Children's Court. I will make available to the honourable member a copy of the standard letter sent to persons who accept appointment to the District Court.

The honourable member also quotes from the Chief Justice's letter about the appellate provision in clause 22(2)(b). This provision was amended in another place to take into account the Chief Justice's concerns. The honourable member asked about transitional provisions: these have not been drafted as yet. They will need to be dealt with at the same time as the children's protection legislation. The question of the Youth Court being included in the Courts Administration Council will be dealt with at the same time, although I do not think there is any difficulty with that.

Bill read a second time.

OCCUPATIONAL HEALTH, SAFETY AND WELFARE (PLANT) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 23 April. Page 2087.)

The Hon. J.F. STEFANI: In view of the hour my contribution will be very brief. The Liberal Opposition supports this legislation, which seeks to amend the Occupational Health, Safety and Welfare Act by incorporating the control and use of plant, including lifts, cranes, pressure vessels and amusement structures under one Act. The Bill will further facilitate the adoption of the national occupational health and safety standards for the use of plant as defined in the schedule. It is envisaged that those standards are to be achieved by December 1993.

The national standards are being developed by the National Occupational Health and Safety Commission, which has recommended legislative amendments to ensure coverage of all industries and plant, taking into account the issues of public safety. The legislation seeks to achieve national uniformity and rationalisation of regulatory requirements within South Australia. The Bill further seeks to revise the second schedule which defines the category and type of plant specifically covered under the existing legislation. The legislation has the broad support of all parties affected by these changes and has the support of the Liberal Opposition.

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

EVIDENCE (VULNERABLE WITNESSES) AMENDMENT BILL

Consideration in Committee of the House of Assembly's amendments:

No. 1. Clause 3, page 2, lines 1 to 3—Leave out paragraph (c) and insert—

(c) to prevent the judge, or (in the case of a trial by jury) the jury, from seeing and hearing the witness while giving evidence.

No. 2. Clause 3, page 2, after line 3—Insert subsection as follows:

(3A) If the effect of an order under subsection (1) would be to prevent the defendant in criminal proceedings from seeing and hearing a witness while giving evidence, the order may only be made if there is no other practicable way to protect the witness.

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

That the House of Assembly's amendments be agreed to.

These matters have been dealt with in another place. The Government accepted the amendments moved by the Opposition, I believe, after some discussion. They dealt with issues that had been raised by the Hon. Mr Griffin to which further consideration was going to be given. That is what happened and I believe that the amendments now have the agreement of both the major Parties.

The Hon. K.T. GRIFFIN: I support the motion. The amendments relate to the issue of screening a vulnerable witness from the accused. We passed amendments in this place which were to the effect that a witness who might be screened, whether by closed circuit television or by one-way glass, should be seen and heard by the defendant, the jury and the judge. The issue related to screening. The problem was that, if the witness had to be seen and heard by the accused, with screening it might be possible to allow the witness to be heard by the accused but not possible to achieve the objective of visually screening the defendant from the accused.

The amendments which have now been proposed by the House of Assembly were the subject of consultation. They overcome the difficulty so that always the witness will be heard by the accused as well as by the judge and jury. Wherever possible the witness will also be seen by the accused but it is recognised that in some instances that may be impossible. It is in those circumstances that I

think we now have a satisfactory form of words to achieve the objective in all cases. I support the motion.

Motion carried.

SUPERANNUATION (VOLUNTARY SEPARATION) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 30 April. Page 2234.)

The Hon. R.I. LUCAS (Leader of the Opposition): I rise to speak only briefly to this Bill. My colleague the Hon. Legh Davis has more than adequately covered the major detail in relation to the legislation and has indicated on behalf of the Liberal Party that we support the Bill. I only want to comment on the possible use of voluntary separation packages in the education sector and to direct some questions to the Minister, who I am sure is well briefed and able to answer these questions at this hour of the morning, with officers obviously prepared to assist!

I note from the circular that has been sent out to all staff by the Director-General of Education, in part about the formation of the new South Australian Department of Education, Employment and Training (SADEET), he talks about the use of selected separation packages, as follows:

> The Government has also approved the use of selected separation packages for use in the restructuring process as part of a targeted separation program. Contrary to recent media reports, these strategically oriented separation packages will be available to personnel within the schooling sector. The schooling sector packages will be targeted to groups where there is a surplus of personnel in excess of numbers based on current agreements with the South Australian Institute of Teachers. The criteria for selection of the strategically oriented separation packages and the processes used will be determined after consultation with the interest groups. Information will be communicated when details have been confirmed. The acceptance of these packages will not be compulsory. No schooling sector staff will be made redundant or be obliged to accept a separation package.

I seek a response from the Minister as to which areas within the new Department of Education, Employment and Training are to be targeted where there are evidently surplus personnel in excess of numbers based on current agreements with the South Australian Institute of Teachers. I understand that at this early hour of the morning the Minister will not have an immediate response to that. I certainly do not intend to delay the passage of the legislation seeking a response, but I seek an undertaking from the Minister that she will seek a response in due course and have the appropriate Minister or officer correspond with my office and provide that information, if that is possible.

The memorandum from the Director-General of Education outlines, I suppose, the elements of the targeted separation package that will be made available to Education Department employees and obviously to other public sector employees. I seek from the Minister an example of the typical pay-out that might be made to an officer in the Education Department who started perhaps at about age 20 and is now 50 years of age, with 30 years of service in the department, and who has now perhaps reached the level of principal within the department. That amount should include the minimum superannuation pay-out of what I presume would be two full years salary (104 weeks pay), and any other provisions that might be made, on average, for a principal as part of a final pay-out package.

I am advised that, for example, on average there may well be principals who have X number of weeks of unused long service leave and other provisions like that which generally are part of final pay-out packages. Whilst I accept that there is no one response to this question, there must be some average figure that the Education Department would be working on in relation to a teacher who is now a principal, who has had 30 years service in the department and who is now going to take up a targeted separation package.

I also seek details as to what sort of criteria the department will use to ensure that the quality principals or deputy principals are not the ones who take the targeted separation packages and that we can ensure, as the Minister of Public Sector Reform has sought to assure us, that we will not lose the quality public servants or quality education officers through the use of the targeted separation package.

Finally, I ask what is the total estimate of the sum of money that the Government has set aside for targeted separation packages under this scheme. I understand the figure to be in the order of $250 million to $260 million, as was talked about earlier. Within Public Service circles at the moment a figure of $600 million has been commonly used by public servants as being the total bucket of money that the Government intends to use for targeted separation packages. I seek a response from the Minister regarding that total sum of money and whether or not it is all the Commonwealth money that is coming as a result of offsets for the sale of the State Bank, or whether the State Government is using other buckets of money to assist with the payment of the targeted separation package scheme. With those words, I indicate my support for the second reading.

The Hon. BARBARA WIESE (Minister of Transport Development): I thank all members for their contributions to the debate and will undertake to pass on to the Minister of Education the questions that were asked by the Hon. Mr Lucas, and I will ensure that replies to those questions are provided as soon as possible.

Bill read a second time.

In Committee.

Clauses 1 and 2 passed.

Clause 3—'Insertion of s.28a.'

The Hon. L.H. DAVIS: I indicated that the Liberal Party supports the Act to amend the Superannuation Act to take into account the proposed voluntary separation packages which the Government is currently offering. In view of the lateness of the hour and the fact that we are running against time to complete the session, I am quite happy to ask some questions of the Minister on the understanding that I will be able to get a reply in writing in due course.

The Liberal Party has made the observation that it is a big task to expect necessarily 3 000 voluntary separation

agreements to be entered into in the next 14 months, given that we have had only 3 500 voluntary separation packages entered into in the past three years. So, certainly it is going to be interesting to see whether that target of 1 500 over the next two months is going to be effected and maybe we can have progress on that. Maybe the Minister could arrange for a progress report to be given in writing, say at the end of 31 May; that might be quite helpful just to see how it is progressing. I can imagine that the voluntary separation package will probably be most attractive to people who are on superannuation already. Perhaps the Minister can gain a response from the people who have entered into the Public Service at a relatively young age and who had the foresight to join the scheme perhaps 30-35 years ago. They will have built up quite a comfortable superannuation package and will be in a better position to take advantage of a voluntary separation package than those who had not entered the scheme.

We should remember that only about 30 per cent of public servants belong to the superannuation schemes—both the old scheme and the new lump sum scheme. I have had the advantage of a briefing by an officer familiar with superannuation and the anticipation is that the voluntary separation package will be taken up by half of the 3 500 that they are hoping will accept voluntary separation packages.

The Hon. R.I. Lucas: How many?

The Hon. L.H. DAVIS: I am sorry; of the 3 000 that they hope will accept voluntary separation packages about half will be on superannuation which is rather more than 30 per cent in the overall scheme. I understand that the average lump sum payment in the voluntary separation package which is being made possible in the legislation before us will be in the order of $40 000 to $60 000 per person. The average superannuation payout will be in the order of $60 000 to $70 000. In other words, the aggregate benefit, rolling all that up, will be a gross figure of $100 000 to $130 000 and perhaps the Minister can confirm the accuracy of that figure.

Certainly the figure that I did, in my rough thumb nail sketch in the second reading, is that if 3 000 people retired on an average package of $70 000 that would aggregate $210 million. But on the figures that have been provided to me an average of $100 000 to $130 000 for 3 000 people would suggest a figure of over $300 million gross which is rather more than the Government has indicated.

That means that in the short term there will be a burden on the Government, although I accept that in the longer term the superannuation scheme, particularly the old scheme, will be a big winner. But in the short term there is a considerable burden. The other point that is appropriate to make, although not directly related to this Bill, is that I have noted that in the police scheme there is provision for partial disablement benefits, for people to receive superannuation and payout benefits for partial disablement. That is a very practical benefit, as one could imagine.

In the police scheme, that might occur in the course of duty. It would perhaps be appropriate for the Superannuation Act to be amended to pick up the area of partial disablement. That is perhaps something on which the Minister could report. Finally, I comment on the fact that the Public Service Association has been slamming the voluntary separation packages in pretty heavy fashion. I am not an apologist for the Government: I have been slamming the Government myself on and off for a period of time; but I must say that the Public Service Association has obviously been overwhelmed by the mushrooms that must be abundant on the ground, because it has made some fairly bizarre claims about the voluntary separation packages.

The fact is that we have had 35 voluntary separation packages in three years: we have not had a peep out of the Public Service Association for those. We are looking at 3 000 in 18 months which, admittedly, is an accelerated rate, and the Public Service Association is jumping up and down. The point that also must be made is that these are arguably the most generous voluntary separation packages in Australia, in the public sector anyway, from my inquiries. So, that is bizarre. Of course, my siding with the Government on that matter does not negate in any way the point that both my colleague the Hon. Rob Lucas and I have made in the second reading, which is that the Government is still to define how it is going to reach this target of 3 000—whether it is apples in the barrel: first out, best dressed.

There is the real difficulty that I would ask the Minister to address. Take a particular division of the public sector where morale might be low, where perhaps there is a commercial operation, where there may be speculation that the Government is looking to wrap it up or perhaps an incoming Liberal Government might be reviewing its operations, and suddenly you get three quarters of the skilled staff of that operation putting up its hand for a voluntary separation package. What does the Government do in that situation?

Does it say 'We are not going to allow 75 per cent to go. It will be first in, best dressed, and we will allow only 25 per cent of the department or division to disappear', or will we take 75 per cent of the skilled staff and give it a VSP, a party and a wave? Is that how it will work? We still do not know. Under interrogation by the Hon. Rob Lucas, the Minister of Public Reform, with his newfound enthusiasm and, might I say, almost a display of reasonableness today, was not able to answer that question. It is a pretty reasonable question.

The Hon. C.J. Sumner: I did answer it, but you are not happy with the answer.

The Hon. L.H. DAVIS: I am reflecting on that now by saying that you still did not answer the question as to what happens in the case where you might get—

The Hon. C.J. Sumner: I did answer that. It doesn't matter.

The Hon. L.H. DAVIS: —I will not labour the point—where you get three quarters of a division seeking to take advantage of the voluntary separation package for one reason or another.

Another point that has to be made is that, on my calculations, some people retiring after a long period of time could well be receiving almost as much in their superannuation and aggregated lump sum pay-out as they are in their actual take-home wage at the moment. There will be very little difference in some cases for long serving Public Service employees. It is certainly very

generous. The 3 000 employees in 18 months, depending on how one defines the public sector, is a pretty significant percentage. It is 3 per cent if we take 100 000, or, if we take a figure less than that, about 80 000, it is slightly more than 3 per cent.

I indicate support for the proposition but reiterate the Liberal Party's concern that this is obviously very much policy on the run—a belated attempt by the Labor Party to get some economic discipline into its strategy ahead of a State election. However, as we have effectively pointed out on several occasions, it is a strategy lacking in refinement and direction.

The Hon. C.J. SUMNER: I will answer the questions that the honourable member has put on notice. I do not believe that the Government's approach to this matter is lacking in direction. I think that the Government has been very specific about what it intends to do. The honourable member has accused me of not answering the question about what one does in respect of his hypothetical division of the Public Service where three-quarters of the skilled staff put up their hands for early retirement. I believe I answered that question when the Hon. Mr Lucas put it to me last week.

The fact is that it is up to the Government to decide whether a retrenchment package—a voluntary separation package—will be offered to an employee. If the Government decides that a function has to be maintained and that the people working in that function have to be kept on board, then no package will be offered to them. I should have thought that was clear enough. However, it is a matter for Chief Executive Officers, within the context of the policy that has been outlined, to seek expressions of interest in taking a separation package and to decide whether, given what they have to do to implement Government policy and administer their departments, it is reasonable to offer those people a package. That seems to be a simple proposition and a direct way of going about it.

The flaw in the arguments put forward by honourable members opposite and by the Public Service Association is where they say that the Government does not have any definite plans about how many from each department will go. If we wanted to do that, we would have to go to compulsory retrenchment. If we have compulsory retrenchment, we can say, 'There should be so many from this department and so many from that department'. If we want to be involved in compulsory retrenchment, we can get people retrenched in a more scientific way by putting numbers in various departments. However, the Government has made it clear that it is not going down that track. Once that policy decision of not accepting compulsory retrenchment has been made, which I understand the Opposition and the Public Service Association support anyhow, we have to engage in the sort of process that the Government has agreed to here: that is, an overall target, with CEOs managing the process.

The honourable member has said that the packages are generous. Whether they are or not, it is still better in terms of getting the recurrent deficit down to get people off the payroll, even with a generous package, than keeping them on the payroll. So, if it is generous and achieves its objective of getting people off the payroll voluntarily then that will have been worth while.

The honourable member has said 3 000 is significant. It is a number but, as the honourable member pointed out, it is in the context of 80 000 to 100 000 public sector employees, depending on what criteria you use.

So, we have outlined how we are going to reach this target by way of the voluntary separation package. I answered it last week and I have repeated that answer this evening. The honourable member may not be satisfied with it but that is his prerogative. As far as I am concerned I believe we have outlined clearly what we intend to do.

Clause passed.

Clause 4 and title passed.

Bill read a third time and passed.

TRADE MEASUREMENT BILL

Returned from the House of Assembly without amendment.

TRADE MEASUREMENT ADMINISTRATION BILL

Returned from the House of Assembly without amendment.

ENVIRONMENT, RESOURCES AND DEVELOPMENT COURT BILL

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

STATUTES REPEAL AND AMENDMENT (DEVELOPMENT) BILL

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

LIMITATION OF ACTIONS (MISTAKE OF LAW OR FACT) AMENDMENT BILL

Returned from the House of Assembly without amendment.

CORRECTIONAL SERVICES (CONTROL OF PRISONERS' SPENDING) AMENDMENT BILL

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

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

That this Bill be now read a second time.

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

Leave granted.

The purpose of this Bill is to amend the *Correctional Services* Act so as to provide a more flexible and appropriate prisoner pay scheme and to ensure that those prisoners who refuse to work are not able to have access to monies brought into prison from outside for the purchase of tobacco and other personal goods. At the direction of the Government, the Department of Correctional Services has for some time been working to improve the relevance, culture and productivity of its prison industries. The aim is to maximise the opportunities for the training of prisoners in good work habits and educational skills and so as to enhance opportunities for prisoners to obtain paid employment upon release from prison. The revenue generated will also assist the Department to maintain various prisoner programs.

The Government has decided that as a matter of policy it will support appropriate joint ventures between prison industries and some private sector entrepreneurs.

The Government has made it clear to the Department of Correctional Services that the development of prison industries must occur in a way which is sensitive to the needs of South Australian industries, and employment in the private sector. A differential pay system which recognises security classification and location would act as an incentive to encourage prisoners to behave and earn lower security classification ratings.

The proposed amendment will allow the Minister to provide a scheme of prisoner allowances which rewards effort and productivity and which is tailored to the needs of the new industries shortly to be established in South Australian prisons.

The aim is to provide a financial incentive for prisoners to work by ensuring a significant difference in the income of prisoners who work and those who choose not to work. That would mean very little if the Manager of the prison could not lawfully control the spending of trust funds by those prisoners who choose not to work. Prisoners' purchases of tobacco and other personal goods must be limited by the amount earned in prison industries, regardless of the funds paid into trust from outside sources.

Under the Act as it stands at present, it is possible by regulation to limit expenditure (from whatever source) by all prisoners in a prison. However the Manager of a prison cannot validly be given a discretionary power by regulation to restrict expenditure of a particular kind by some prisoners (those who refuse to work) while continuing to permit other prisoners (who are prepared to work) to have access to accumulated funds for the same type of expenditure.

I commend this Bill to the House.

Clause 1: Short title

This clause is formal.

Clause 2: Amendment of s. 31—Prisoner allowances and other money

This clause makes a number of amendments to section 31 of the principal Act.

Subsection (1) of section 31 provides for the payment of an allowance to prisoners in a correctional institution at a rate fixed by the Minister with the approval of the Treasurer. Under subsection (2) an additional allowance (at a rate fixed by the Minister with the approval of the Treasurer) is payable to prisoners who perform work. Subsection (3) empowers the Minister to vary the rate of the work allowance according to the class of work performed. This clause substitutes new subsection (3), which retains that power to vary the rate of the work allowance according to the class of work performed, but adds a power to vary the rate according to the correctional institution concerned or the security classification of the prisoner (or according to any combination of these factors).

This clause also inserts new subsection (5a) into section 31. New subsection (5a) provides that where a prisoner in a correctional institution receives money (other than allowances paid under section 31) that is to be held in trust for the prisoner, the manager of the correctional institution must establish an account in the name of the prisoner into which all such money will be paid.

This clause also inserts new subsection (7) into section 31. New subsection (7) provides that, subject to the principal Act, withdrawals from an account held in the name of a prisoner, and the purposes for which withdrawals are made, are at the discretion of the manager of the correctional institution. The new subsection then specifies that, without limiting this discretion of the manager, withdrawals may be refused where the manager thinks that the refusal is justified in the interests of the good management of the prisoner or of the correctional institution generally.

Clause 3: Amendment of s. 32—Purchase of items of personal use by prisoners

This clause amends section 32 of the principal Act. Section 32 requires the manager of a correctional institution to make available for purchase by prisoners such items of personal use or consumption as may be prescribed and empowers the manager to make available for purchase such other items as the manager thinks fit. This clause amends section 32 to make it clear that the withdrawal of money by prisoners to purchase the items made available under section 32 remains at the discretion of the manager in accordance with section 31 (as amended by clause 2).

Clause 4: Amendment of s. 89—Regulations

This clause amends section 89 of the principal Act, the regulation-making power. Section 89(2)(k) of the principal Act empowers the Governor to make regulations prescribing the purposes for which and the manner in which money held to the credit of a prisoner may be applied, or limiting the amount that may be drawn by a prisoner at any one time or during a specified period. This amendment repeals section 89(2)(k).

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

LOCAL GOVERNMENT (VOTING AT MEETINGS) AMENDMENT BILL

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

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

That this Bill be now read a second time.

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

Leave granted.

This Bill seeks to amend section 60(3) of the Local Government Act 1934 to make it clear that the Mayor or presiding member is excluded for the purpose of calculating the number of votes required to constitute a majority in a council meeting.

Section 60(3) of the Local Government Act 1934 currently provides that:

Subject to this Act, a question arising for decision at a meeting of a council will be decided by a majority of the votes of the members present at the meeting.

Also relevant are s.60(4) and s.60(5) of the Act. Section 60(4) requires each member present at a council meeting, unless there is provision to the contrary, to vote on a question arising for decision at a meeting, while s.60(5) provides that the Mayor or presiding member does not have a deliberative vote but, in the event of an equality of votes, has a casting vote.

The issue at question is whether the Mayor or presiding member must be taken into account when determining the number of votes needed to constitute a majority, despite the fact that he/she does not have deliberative vote.

(This issue does not arise in relation to councils with Chairs, and not with Mayors, given that s.60(6) provides that the Chair has a deliberative but not a casting vote.) There is a difference of legal opinion as to the interpretation of Section 60(3).

The Crown Solicitor's view is that under the current provision, the Mayor or presiding member should be taken into account when determining a majority while the LGA's legal advisers consider that only those members present and able to vote should be included.

The need for clarification of s.60(3) of the Local Government Act has been recognised since mid 1990 when the matter was raised with the then Department of Local Government by the City of Burnside. Following discussions between State Officers, the Local Government Association and others the LGA suggested that the matter be let lie to enable consultation with councils.

In the latter part of 1991, the LGA surveyed Local Government on the issue and on the basis of responses received from councils asked that s.60(3) be amended to indicate that the Mayor is excluded from the calculation of the number of votes required to constitute a majority in a council meeting except when the vote is tied and the Mayor exercises a casting vote.

This would reflect the current practice in the majority of councils with Mayors.

The amendment before this House will make it clear that the Mayor is excluded from the calculation of the majority, except in situations where he/she is exercising a casting vote.

The provisions of the Bill are as follows:

Clause 1: Short title.

This clause is formal

Clause 2: Commencement.

This clause provides for the commencement of the measure.

Clause 3: Amendment of s.60—Procedure at meetings.

This clause provides for the enactment of a new subsection (3) of section 60 to clarify that a question arising for decision at a meeting of a council will be decided by a majority of the votes cast by the members present at the meeting and entitled to vote on the question.

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

GUARDIANSHIP AND ADMINISTRATION BILL

The House of Assembly intimated that it had agreed to the Legislative Council's amendments Nos 1, 2, 8, 9 and 11, and that it had disagreed to the Legislative Council's amendments Nos 3 to 7 and 10.

Consideration in Committee.

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

That the Legislative Council no longer insists on its amendments Nos 3 to 7 and 10.

The major issue that is in dispute between the Houses relates to the issue of to whom the Public Advocate should be responsible. I understand that the Legislative Council has a firm view on the topic and that the House of Assembly has a firm view on the topic at this stage, which means it can probably only be resolved by a conference. So, without further ado, I suggest that the matter be dealt with so that the conference can be set up, I understand, for tomorrow morning.

Motion negatived.

MENTAL HEALTH BILL

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

TOBACCO PRODUCTS (LICENSING) (FEES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 28 April. Page 2136.)

The Hon. R.I. LUCAS (Leader of the Opposition): Even in the middle of the day the Opposition is not wildly enthusiastic about this legislation, but certainly at this hour of the morning we are even less wildly enthusiastic about it. Nevertheless, we do not seek to oppose the legislation during its passage through both Houses of Parliament. As was announced in the Premier's Economic Statement, the tobacco franchise fees are to be increased via a tax rate rise from 75 per cent to 100 per cent as from the June licence month. The average price of cigarettes was meant to increase by some 50¢ a packet. However, as was seen from some recent publicity in the *Advertiser,* a good number of packets of cigarettes were increasing in price from 60¢ to almost $1 a packet.

I suppose the advantage, from a Government viewpoint, in relation to hitting tobacco products all the time is the relative inelasticity in the price of tobacco. It is worthwhile noting from the Minister's second reading explanation when the Bill was introduced in another place that he talked about the rate of the tobacco tax last being increased in 1992. He indicated at that time it was anticipated that tobacco consumption would fall as a result of the flow-on of the tax increase. He then noted that the negative impact on consumption had not been as large as expected, with the result that the tobacco tax revenues were expected to exceed the 1992-93 budget estimate by at least $10 million.

So, Treasury was assuming that because of the very large rise in the price of tobacco products there would be a corresponding significant decline in consumption. It therefore estimated the total take from the tax, but it found the drop in consumption was nowhere near as significant as had been anticipated. In fact, as I indicated, there was an underestimate of the tax take by some $10 million. That is a fair indication that those people who do smoke will smoke almost irrespective of the price of cigarettes. No matter how hard you whack

the tax on to a packet of cigarettes, generally smokers are a pretty hardened lot and they will continue to pay the price, no matter what that price might be.

The Hon. L.H. Davis: Would you like to define that?

The Hon. R.I. LUCAS: I am asked by my colleagues—non-smokers and smokers alike, I suspect—what is a hardened lot? As I said, in economic terms, tobacco is a price inelastic product. It basically means that people will continue to use the product no matter what the price. There is always some drop off, but no matter what the price of the product smokers will continue to smoke; they will pay the price of cigarettes and continue to use the product, and the Government obviously continues to take money off the top.

It does not seem that many years ago—and we can all remember them—when after Federal budgets, in particular, one would see headlines which said, 'Shock/Horror budget: smokes up 2¢, schooner up 10.' I can remember my father, who was, I think, a 40 smokes a day man for most of his adult life—God rest his soul; he is no longer with us—and also a significant beer drinker in his time, describing himself as a typical working class, Labor-voting union representative in Mount Gambier. When that headline came out in the *Melbourne Sun* or the *Melbourne Herald*—because he did not believe in Adelaide newspapers in Mount Gambier—with 10 up on schooners and 2¢ up on smokes, it was an absolute disgrace. The Liberal Government, as it probably was then, was hacking into the working class representatives of Australia. As far as he was concerned it was typical of a Liberal Government to get stuck into the working man.

Members interjecting:

The Hon. R.I. LUCAS: It is remarkable that not much more than 10 years ago you would have seen those headlines. These days Governments of all persuasions lift the packet of a cigarettes by 50¢ and there is a quick story, a quick yawn and life goes on.

The Hon. Diana Laidlaw: It is harder for some.

The Hon. R.I. LUCAS: It is harder for some, I acknowledge to my colleague the Hon. Diana Laidlaw. It is such a remarkable difference in what is a relatively short space of time the way that smokers—and drinkers to a degree but smokers in particular—continue to get hit but nevertheless continue to smoke. Perhaps those who smoke are replaced by a new generation who take up smoking and that continues to maintain the consumption rate and therefore the tax take for Governments.

I was interested in some statistics on the demographics of smokers. Some interesting research has been done in recent years about it. In part it corresponds with my own anecdotal and personal experience. I know, from attending various community groups, that two groups of people seem to smoke the most. The first group is the unemployed, and when attending their meetings I never cease to be amazed at the significant number of them who smoke. The second group is the young professional women, and again I never cease to be amazed at the percentage of them who smoke.

The Hon. K. T. Griffin interjecting:

The Hon. R.I. LUCAS: My colleague the Hon. Mr Griffin offers a further suggestion that it is not just the young professional women who smoke. A publication prepared by ACIL Australia Pty Ltd, based on data supplied by the Australian Bureau of Statistics, sheds some light on that first group I talked about, the unemployed. That research shows:

> When households are classified by the employment status of the reference person, tobacco consuming households with an unemployed reference person were, in 1988-89, the biggest spenders on tobacco products. These household had an average weekly expenditure of $18.74. This was $1.38 or 8 per cent higher than the next highest spending group, households with a wage and salary earning reference person. This result is of some importance given that there was a significant gap between the incomes of unemployed reference person households and wage and salary reference person households.

I cannot recall, but I presume that the price of a packet of cigarettes back in 1988-89 was significantly less than—and my colleague the Hon. Diana Laidlaw can tell me, because it is over $5 now I suppose for some packets.

The Hon. Diana Laidlaw: It is still $4.42 at Parliament House.

The Hon. R.I. LUCAS: But I understand it is probably around about $5 for some packets of cigarettes in other places. Back in 1988-89 packets of cigarettes would have been much less than that. This ABS survey indicates that at that time households with an unemployed person in them were spending on average $18.74 weekly on tobacco products.

My gut reaction based on anecdotal evidence is pretty close to the mark based on this information from the Australian Bureau of Census and Statistics regarding households that currently spend the most amount of money on tobacco products. One can understand the stresses and strains of being unemployed and that many people find solace in the dreaded weed. Therefore, there is some explanation for that reflection. I wish to comment on two other matters. As I indicated at the outset, whilst the Opposition is not wildly enthusiastic about the legislation, it will not oppose it. My colleague the Hon. Mr Griffin has just supplied me with information on the current prices of cigarettes, which range from $3.97 for a packet of Peter Jackson 20s to $7.72 for a packet of Horizon 50s.

The Hon. L.H. Davis interjecting:

The Hon. R.I. LUCAS: My colleague the Hon. Mr Davis tells me that the increase is about 60¢, but the price of a packet of Horizon 50s has increased from $6.75 to $7.72, a significant increase of almost $1. The justification for the legislation is the gathering of about $35 million, although as I indicated earlier even more may be taken out in tax. That money is to be used in part to offset the reductions in financial institutions duty, which is the subject of another piece of legislation currently before the Council. For that reason, the Liberal Party has not opposed the legislation as it progresses through both Houses of Parliament.

The only other aspect that I wish to raise and which was raised when we last discussed similar legislation concerns the collection period for the tobacco tax. Because of provisions in the legislation, which comes into operation on 1 June, tobacco retailers and wholesalers have been meant to be collecting the monthly fee from 1 April, which is 22 days prior to the Economic Statement and 23 days prior to the Prices Surveillance Authority actually increasing the price of cigarettes.

Therefore, for that 23-day period the tax was not collected, even though it was meant to be collected and is payable to the Government. The Treasurer in another place has indicated that because of the problems with the previous piece of legislation he is prepared to promise that *ex gratia* payments will be made to tobacco companies to cover any shortfall in tax collections similar to the treatment last year. I do not intend to repeat the arguments put forward in last year's debate when that matter was won. As the Treasurer has indicated, he is prepared to follow a similar course and we endorse that proposal.

The Hon. C.J. Sumner: Does that mean you won't be moving an amendment?

The Hon. R.I. LUCAS: No. That amendment was moved in another place a week or 10 days ago. Having now discussed it with the shadow Treasurer, we understand the Treasurer's undertaking in relation to this matter and we will take him at his word. For that reason, as I said at the outset, whilst we are not wildly enthusiastic about the legislation we will not oppose its passage through the Parliament.

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

DEVELOPMENT BILL

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

GUARDIANSHIP AND ADMINISTRATION BILL

The House of Assembly requested a conference, at which it would be represented by five managers, on the Legislative Council's amendments to which it had disagreed.

The Legislative Council agreed to a conference, to be held in the Legislative Council Conference Room at 9.30 a.m. on Thursday 6 May, at which it would be represented by the Hons J.C. Burdett, T. Crothers, M.J. Elliott, R.J. Ritson and G. Weatherill.

ADJOURNMENT

At 1.7 a.m. the Council adjourned until Thursday 6 May at 11 a.m.