LEGISLATIVE COUNCIL

Wednesday 6 October 1993

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

MEMBERS' INTERESTS

The PRESIDENT: Pursuant to section 5(4) of the Members of Parliament (Register of Interests) Act 1983, I lay upon the table the Registrar's Statement, June 1993, prepared from the ordinary returns of the members of the Legislative Council.

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

That the Registrar's Statement be printed.

Motion carried.

QUESTIONS ON NOTICE

The PRESIDENT: I direct that written answers to the following questions on notice, as detailed in the schedule that I now table, be distributed and printed in *Hansard*: Nos 70, 72 and 74.

CHILDREN'S SERVICES OFFICE

70. **The Hon. R.I. LUCAS:** For each year—1990, 1991, 1992 and up to August 1, 1993—will the Minister of Education, Employment and Training list all land and facilities held by the constituent parts of the new SADEET which have been sold and will the Minister indicate the value of each sale?

The Hon. ANNE LEVY: During the years 1990, 1991, 1992 and up till 30 June 1993, no land or facilities from the Children's Services Office has been sold and consequently no proceeds from sale were received.

The following is a list of Department of Employment and Technical and Further Education properties which have been sold since 1990.

DEPARTMENT OF EMPLOYMENT AND TAFE

NAME	LOCATION	DATE SOLD	AMOUNT
Croydon	Thebarton Branch	30.06.90	$ 1 000 000
Riverland	Gerry Mason Centre	-	Transferred to Aboriginal Land Trust 09.05.91
Light	Third St, Nuriootpa	14.08.91	$ 132 000
Marleston	Desmond & Argyle Ave	13.07.92	$ 310 000
Kensington	Mathilda Street	24.07.92	$ 150 000
Kensington	Lossie Street	04.08.92	$ 2 305 000
Kensington	Toowonga Avenue	04.08.92	$ 531 000
Goyder	27 Taylor St Kadina	13.08.92	$ 82 000
Goyder	Moonta Mines School	01.10.92	$ 20 000
Barker	Part Aldgate Campus	26.10.92	$ 20 240
Kingston	Carlton Parade, Camden	28.01.93	$ 340 000

EDUCATION DEPARTMENT

The following are Education Department properties which have been sold since 1990.

PROPERTY 1989/90

PROPERTY	RECEIVED
Fulham Primary School	2 425 000
West Lakes High School (part)	13 500
Raywood Inservice Centre (part)	1 240 540
Wattle Park (Wynard Grove)	460 681
Wattle Park (Kensington Road)	2 192 707
Lochiel Rural School (part)	18 074
Port Broughton Area School (part)	17 203
Sturt Triangle (part payment)	950 000
Vermont High School (adjustment)	3 800
Garden Terrace Underdale (part Underdale HS)	77 693
Magill Special School (part)	319 652
Mindarie Rural School	2 345
Patpa Primary School Site	300 997
Arthurton Primary School	2 982
Reynella Primary School (part)	93 549
South Road Primary School (part)	90 000
Campbelltown Primary School	1 160 000
Seaford Primary School Site (unsuitable site)	485 011
Furner School	3 880
Daws Road High School (portion)	50 662

PROPERTY 1990/91

PROPERTY	RECEIVED
Magill Special School (balance)	375 875
Surrey Downs Kindergarten (part)	35 000
Apila Rural School	11 567
Seaton Primary School	138 000
Tea Tree Gully Primary School (refund of fees)	7 100
Pennington Junior Primary School	265 034
Lochiel Rural School (balance)	2 000
Sturt Road Triangle (balance)	550 000
Pioneer Village, South Rd, Morphett Vale (part)	1 990
Ethelton Junior Primary School	169 278
Reynella Primary School (balance)	770 238
Leighton Rural School	7 172
Blackwood Junior Primary School	829 869
Campbelltown Primary School (part)	19 812
Old Kingston Area School	88 551
Henley Beach High School (part)	1 001 004
Mannum High School (part)	4 439

PROPERTY 1991/92

Black Forest Primary School (part)	64 340
Seaton North Primary School (part)	1 500
Keithcot Farm Primary School (part)	203 996
Point Pass Land	1 000
Kybunga Rural School	2 760
Hackham Pioneer Village (part)	173 759
Port Adelaide Primary School (Ethelton) (part)	225 000
Purnong Primary School	3 565
Port Pirie Education Centre	85 601
Part Bolivar East Primary School	120 950
Gulnare Rural School	20 044
Mt Hill Rural School House	7 552
Delamere Rural School	74 060
Morphett Vale Town School	143 163
Pooraka (Montague Road)	622 000

Kidman Park High School (part—buildings)	3 587 000
Sturt Primary School (adjacent land Norfolk Rd)	89 200
Portion Warradale Primary School	225 000

PROPERTY 1992/93

PROPERTY	RECEIVED
Ingle Heights Primary School	711 056
Taperoo Primary School (part)	1 500
Kongorong Primary School (house)	4 950
Lenswood Primary School (part)	3 680
Ingle Farm Primary School	564 336
Campbelltown High School (oval)	1 707 083
Ebenezer Primary School	22 353
Port Augusta Primary School	450 000
Robe Primary School (easement)	560
Charleston Primary School	106 583
Findon High School (part)	879 517
Thebarton Primary School (part)	104 300
Goodwood High School (part)	185 474
Ingle Central Primary School	551 624
Eden Valley Campsite	108 144
Hindmarsh Primary School (part)	790 027
St Morris Primary School (part)	1 609 747
Wandana Junior Primary School (part)	133 016
Maud Street (Victor Harbor)	218 981

1993/94 to 31 July 1993

PROPERTY	RECEIVED
St Morris Primary School (part)	636 630
Sandstone Avenue (Naracoorte)	33 275

TEACHERS

72. **The Hon. R.I. LUCAS:** What was the attrition rate for the teaching service for the years 1990, 1991, 1992 and what is the estimated rate for 1993 and how is that latter estimate arrived at?

The Hon. ANNE LEVY: The following table indicates the attrition rate for permanent officers employed as lecturers under the TAFE Act, 1976 for the years 1990, 1991, 1992 and the predicted rate for 1993.

Department of Technical and Further Education

ACADEMIC YEAR	ATTRITION
1990	3.14%
1991	2.23%
1992	2.85%
1993	6.42%* (est)

* The actual attrition rate for permanent TAFE Act officers up to 4.6.93 was 17(1.16%). The prediction of the expected normal separations from 5.6.93-31.12.93 plus the separations from Targeted Separations Packages in 1993 may total 77, consequently, the estimated number of separations from officers of the teaching service employed under the TAFE Act for 1993 may be 94 employees (6.42%).

Children's Services Office

The attrition rate for teaching staff within the Children's Services Office over the years requested is as follows:

YEAR	ATTRITION RATE
1990	1.59%
1991	2.16%
1992	2.40%
1993	1.90% (estimated)

The estimated rate was derived at by considering the number of teachers who left at the end of term 2 and taking into account past numbers, applying it proportionally.

Education Department

The attrition rate for permanent registered teachers employed under the Education Act over the period requested are:

FINANCIAL YEAR	ATTRITION RATE
1990	3.5%
1991	2.0%
1992	3.0% (2.3% adjusted)*
1993	2.5% (estimated)

* The 1992 figure includes 0.7 percentage points attributed to persons who resigned as part of the 'Changing Directions Scheme'. Hence the comparable figure for 1992 is 2.3 per cent. The 1993 rate was an estimate based on the extrapolation of the most recent years rates, smoothed (statistically) to obtain a line of 'best fit'.

STATE GOVERNMENT INSURANCE COMMISSION

74. **The Hon. L.H. DAVIS:** Will the Attorney-General—

1. Provide a schedule no later than 26 August 1993 listing details of all land and property transactions undertaken by the State Government Insurance Commission or its subsidiaries for the period 21 February 1991 to 12 August 1993 in the same form and with the same detail as was provided for in answer to a question in another place on 5 March 1991?

2. Provide a schedule no later than 26 August 1993 listing details of all land and property held by the State Government Insurance Commission or its subsidiaries as at 12 August 1993?

The Hon. C.J. SUMNER: Attached are schedules as requested by the Honourable Member. Due to the quantity of information requested and the extent of the research required to obtain it, I regret that I have been unable to meet the time frame demanded.

SCHEDULE OF SGIC PROPERTY TRANSACTIONS
FROM 21 FEBRUARY 1991 TO 12 AUGUST 1993

Property	Settle-ment Date of Purchase	Name of Vendor	Purchase Price	Settle-ment Date of Sale	Name of Purchaser	Sale Price
72-76 States Rd, Morphett Vale	21.02.91	S & M Politis	$210 000	N/A	N/A	N/A
30-40 West Terrace, Adelaide	N/A	N/A	N/A	02.04.91	ASC Restaurant Pty Ltd	$1 750 000
4 Franklin Street, Oaklands Park	17.05.91	M Hickin- botham	$155 000	N/A	N/A	N/A
3 Dunrobin Road, Hove	31.01.92	RK & M Tapp	$115 000	N/A	N/A	N/A
44-50 Flinders Street, Adelaide	N/A	N/A	N/A	07.05.92	SA Public Service Savings and Loans Society Limited	$1 675 000
Lots 7 & 8 Port Wakefield Road, Gepps Cross	N/A	N/A	N/Av	02.06.92	Stratco (SA) Pty Ltd	$1 825 000
22 Grote Street, Adelaide	N/A	N/A	N/A	12.06.92	Loong Phoong Pty Ltd	$750 000
Sec 5693 Kateena Street, Regency Park	N/A	N/A	N/A	03.08.92	Poly Products Co Pty Ltd	$600 000
Sturt Highway, Berri	N/A	N/A	N/A	31.08.92	BW & SM Hill	$83 000
191A-193 Victoria Square, Adelaide	N/A	N/A	N/A	22.09.92	Phonor Pty Ltd	$870 000

SCHEDULE OF SGIC PROPERTY TRANSACTIONS
FROM 21 FEBRUARY 1991 TO 12 AUGUST 1993

Property	Settle-ment Date of Purchase	Name of Vendor	Purchase Price	Settle-ment Date of Sale	Name of Purchaser	Sale Price
13 Lorraine Avenue, Pt Lincoln	N/A	N/A	N/A	12.11.92	ML & JR Lawson	$107 000
5 Milham Street, Oaklands Park	18.11.92	BT Cornish	$250 000	N/A	N/A	N/A
Lot 421, Church Street, Port Adelaide	N/A	N/A	N/A	15.12.92	Greek Orthodox Community The Nativity of Christ Port Adelaide & Environs Inc	$160 000
52 Gorge Road, Campbelltown	N/A	N/A	N/A	02.03.93	Resthaven Inc	$315 000
16 Langley Road, Victor Harbor	N/A	N/A	N/A	19.04.93	CI Oliver	$117 000
91-99 Richmond Road, Mile End South 401-405 South Road, Mile End South 101-105 Richmond Road, Mile End South	N/A	N/A	N/A	23.04.93	Royal Automobile Association of South Australia Inc	$3 900 000
1 Port Wakefield Road, Gepps Cross	N/A	N/A	N/A	08.05.93	Primehand Pty Ltd	$890 000
18 Grote Sreet, Adelaide	N/A	N/A	N/A	21.05.93	Akepot Pty Ltd	$986 000
191 Fullarton Road, Dulwich	N/A	N/A	N/A	17.06.93	Merfund Nominees Pty Ltd	$3 480 000
46 Fullarton Road, Norwood (See Note 1)	N/A	N/A	N/A	30.09.93	CPM & S Pty Ltd and/or Nominee	$750 000
33 Waymouth Street, Adelaide (See Note 2)	N/A	N/A	N/A	15.12.93	Todd Partners Properties Pty Ltd and/or Nominee	$630 000

Note 1: Property is under an unconditional Contract of Sale.
Note 2: Property is under an unconditional Contract of Sale.

LAND AND PROPERTY TRANSACTIONS
21 FEBRUARY 1991 AND 12 AUGUST 1993

In addition to the listing in the schedule, the following properties were registered in the name of SGIC on 24 December 1991 for no financial consideration—the registered proprietors immediately prior to SGIC being named as proprietor held the properties in trust for SGIC.

4 Milham St, Oaklands Park
2 Milham St, Oaklands Park
287 Diagonal Rd, Oaklands Park
1a Franklin St, Oaklands Park
279 Diagonal Rd, Oaklands Park

PROPERTY	REGISTERED PROPRIETOR
9 Mackay St, Pt Augusta	State Government Insurance Commission
11 Helen St, Mt Gambier	State Government Insurance Commission
5 Regent St, Mt Gambier	State Government Insurance Commission
64 Dale St, Pt Adelaide	State Government Insurance Commission
201 Victoria Sq, Adelaide	State Government Insurance Commission
211 Victoria Sq, Adelaide	State Government Insurance Commission
19 Morialta St, Adelaide	State Government Insurance Commission
91 Tasman Tce, Pt Lincoln	State Government Insurance Commission
19 Seventh St, Murray Bridge	State Government Insurance Commission
116 Reservoir Rd, Modbury	State Government Insurance Commission
71-83 Franklin St, Adelaide	State Government Insurance Commission
72-78 Grote St, Adelaide	State Government Insurance Commission
7-17 Gawler Place, Adelaide	The Corp of City of Adelaide
53-69 Franklin St, Adelaide	State Government Insurance Commission
20 Arthur St, Naracoorte	State Government Insurance Commission
172-186 Gawler Pl, Adelaide	State Government Insurance Commission
104 Florence St, Pt Pirie	State Government Insurance Commission
13-19 Bank St, Adelaide	State Government Insurance Commission
575 South Rd, Regency Park	State Government Insurance Commission
20 Bridge Rd, Murray Bridge	State Government Insurance Commission

PROPERTY	REGISTERED PROPRIETOR
33 Waymouth St, Adelaide	State Government Insurance Commission
31-39 Gouger St, Adelaide	State Government Insurance Commission
Lot 40 Braunack Tce, Tanunda	State Government Insurance Commission
47 Coker St, Ferryden Park	State Government Insurance Commission
13 Parish Cres, Murray Bridge	State Government Insurance Commission
82 King William St, Adelaide	State Government Insurance Commission
12 Grote St, Adelaide	State Government Insurance Commission
15-19 Franklin St, Adelaide	State Government Insurance Commission
11-13 Franklin St, Adelaide	State Government Insurance Commission
14 Forsyth St, Whyalla	State Government Insurance Commission
11 Elizabeth Way, Elizabeth	State Government Insurance Commission
14-16 Durham St, Glenelg	SGIC Nominees Pty Ltd
111 Beach Rd, Christies Beach	State Government Insurance Commission
44 Pirie St, Adelaide	State Government Insurance Commission
50 Pirie St, Adelaide	State Government Insurance Commission
4 Gold St, Pt Augusta	State Government Insurance Commission
15 Walkley Rd, Pt Lincoln	State Government Insurance Commission
6 Milham St, Oaklands Park	State Government Insurance Commission
4 Milham St, Oaklands Park	State Government Insurance Commission
1 Milham St, Oaklands Park	State Government Insurance Commission
5 Milham St, Oaklands Park	State Government Insurance Commission
17 Milham St, Oaklands Park	State Government Insurance Commission
4 Franklin St, Oaklands Park	State Government Insurance Commission
1A Franklin St, Oaklands Park	State Government Insurance Commission
279 Diagonal Rd, Oaklands Park	State Government Insurance Commission
2 Milham St, Oaklands Park	State Government Insurance Commission
287 Diagonal Rd, Oaklands Park	State Government Insurance Commission
9-21 Gouger St, Adelaide	State Government Insurance Commission
7 Bolivar Cres, Pt Pirie	State Government Insurance Commission
196 Greenhill Rd, Eastwood	State Government Insurance Commission
150-156 North Tce, Adelaide	Bouvet Pty Ltd
47 Waymouth St, Adelaide	State Government Insurance Commission
195 Victoria Sq, Adelaide	State Government Insurance Commission
162-182 Rundle St, Adelaide	State Government Insurance Commission
90 Rundle Mall, Adelaide	State Government Insurance Commission
144 North Tce, Adelaide	State Government Insurance Commission
491 Morphett Rd, Oaklands Park	State Government Insurance Commission
46 Fullarton Rd, Norwood	State Government Insurance Commission
21-37 Torrens St, Victor Harbor	State Government Insurance Commission
5 Acraman St, Victor Harbor	State Government Insurance Commission
12 Napier Court, Berri	State Government Insurance Commission
Lot 100 States Rd, Morphett Vale	State Government Insurance Commission
Lot 102 States Rd, Morphett Vale	State Government Insurance Commission
Lot 103 States Rd, Morphett Vale	State Government Insurance Commission
76 States Rd, Morphett Vale.	State Government Insurance Commission
3 Dunrobin Rd, Hove	State Government Insurance Commission
5 Dunrobin Rd, Hove	State Government Insurance Commission
13 Dunrobin Rd, Hove	State Government Insurance Commission
16 Crombie St, Hove	State Government Insurance Commission
20 Hume St, Adelaide	State Government Insurance Commission
18 Hume St, Adelaide	State Government Insurance Commission
285 Angas St, Adelaide	State Government Insurance Commission
121 Hutt St, Adelaide	State Government Insurance Commission
129 Hutt St, Adelaide	State Government Insurance Commission
28 Hume St, Adelaide	State Government Insurance Commission
26 Hume St, Adelaide	State Government Insurance Commission
24 Hume St, Adelaide	State Government Insurance Commission
137 East Tce, Adelaide	State Government Insurance Commission

PROPERTY	REGISTERED PROPRIETOR
Lot 1 Harvey St, Adelaide	State Government Insurance Commission
20 Alpha St, Prospect	State Government Insurance Commission
49 Oaklands Rd, Somerton Park	State Government Insurance Commission
Lot 9269 Rocklands Dr, Casuarina NT	State Government Insurance Commission
16-18A Saltram Rd, Glenelg	State Government Insurance Commission
NOTE: SGIC Holds a Headlessee's Interest in the Property 7-17 Gawler Pl, Adelaide	

PAPERS TABLED

The following papers were laid on the table:

By the Attorney-General (Hon. C. J. Sumner)—

Parliamentary Superannuation Scheme—Report, 1992-93

Regulations under the following Acts—

Government Management and Employment Act 1985—Various

Summary Offences Act 1953—Dangerous Articles—Variation

Superannuation Act 1988—

Prescribed Authorities—SAOFS, SAGASCO

Child, Adolescent and Family Health Service Employees—MBH Fund Transfer to State Scheme

State Scheme—Bordertown Hospital—Amendment

State Scheme—Kingston Soldiers' Hospital—Amendment

Superannuation (Benefit Scheme) Act 1992—

MBH Fund Closure

SAHC—Visiting Medical Officers Fund.

Rules of Court—District Court—District Court Act 1991—Various

By the Minister of Transport Development (Hon. Barbara Wiese)—

Reports, 1992-93—

Department of Marine and Harbors

Metropolitan Taxi-Cab Board

Department of Road Transport

State Clothing Corporation

State Supply Board

Regulations under the following Acts—

Boating Act 1974—Speed Controls (Balgowan)

Harbors Act 1936—

Speed Limit Exemptions—Port Adelaide River

Port River Speed Restriction—Submarine Corporation

South Australian Health Commission Act 1976—

Independent Living Centre—Audit

Compensable and non-Medicare Patients Fees

By the Minister for the Arts and Cultural Heritage (Hon. Anne Levy)—

Reports, 1992-93—

Adelaide Festival Centre Trust

Art Gallery of South Australia

Department for the Arts and Cultural Heritage

Local Government Finance Authority of South Australia

Local Government Superannuation Board

Pipelines Authority of South Australia

South Australian Museum Board

State Theatre Company

South Australian Urban Land Trust

University of Adelaide

Planning Act 1982—Crown Development Report on proposal to undertake development, Hundreds of Adelaide and Noarlunga

Regulations under the following Acts—

Electricity Trust of South Australia Act 1946— Bushfire Risk Areas—Clearances

Local Government Act 1934—

Expiation Fees—Angle Parking

Parking—Amendments

Urban Land Trust Act 1981—Northfield Development Area

Corporation By-laws—

City of Happy Valley—No. 9—Moveable Signs

City of Whyalla—

No. 1—Permits and Penalties

No. 2—Foreshore Area

District Council By-laws—

District Council of Mannum—No. 2—Streets

District Council of Millicent—No. 8—Dogs

District Council of Port MacDonnell—No. 2— Council Land

District Council of Paringa—No. 33—Lock 5 Marina

By the Minister of Consumer Affairs (Hon. Anne Levy)—

Regulations under the following Acts—

Fair Trading Act 1987—Trade Measurement

Trade Measurement Act 1993—Sale by Volume or Measurement—

Weighbridges

Measuring Instruments

Pre-packed Articles

Trade Measurement Administration Act 1993—Fees and Charges—Various

SELECT COMMITTEE ON COUNTRY RAIL SERVICES IN SOUTH AUSTRALIA

The Hon. G. WEATHERILL brought up the report of the select committee, together with the minutes of proceedings and evidence, and moved:

That the report be printed.

Motion carried.

SOCIAL DEVELOPMENT COMMITTEE

The Hon. CAROLYN PICKLES: I move:

That the members of this Council appointed to the Social Development Committee have leave to sit on that committee during the sitting of the Council on Thursday 7 October 1993.

Motion carried.

GENTING INQUIRY

The Hon. C.J. SUMNER (Attorney-General): I seek leave to make a ministerial statement.

Leave granted.

The Hon. C.J. SUMNER: Early in March this year the Leader of the Opposition asked that certain allegations about the Genting organisation be referred to the Casino Supervisory Authority. An inquiry was subsequently set in train by the authority but, following advice from the Crown Solicitor, that inquiry was terminated and an independent inquiry was commenced by the Chairman of the authority, Ms Frances Nelson, QC, acting in her private and independent capacity. This action was taken in order to ensure that all allegations were subjected to critical scrutiny.

From the outset, Mr President, Ms Nelson was invited to interpret her terms of reference broadly and to investigate matters brought to her attention which warranted further scrutiny even if they were not technically within the terms of reference. It was important that this be done because the reputation of the Adelaide Casino needs to be preserved.

The inquiry has been most thorough. A large amount of material has been studied and evidence has been taken from everyone who appeared likely to be able to contribute. In particular, the Deputy Leader of the Opposition in another

place has made a number of submissions to the inquiry and provided certain material to it. The cost to date has been about $215 000. This figure is not expected to increase significantly when the final accounts are paid.

The report commences with a description of the events which led to the development of the casinos in South Australia and Western Australia with which Genting was involved. It then deals with the specific allegations which the inquiry was required to examine. The first of these concerns the approval procedures in place for the satisfactory appointment of Genting as adviser to the Casino. The inquiry finds that proper procedures were in place for this purpose, that there was adequate understanding between agencies of their responsibilities and that there are proper approval procedures in place for checking future employees. It further finds that procedures should be developed to investigate periodically the ongoing suitability of those associated with the Casino, to monitor the operations of the TAMS agreement and to require the production by Genting and AITCO and their associates of relevant records, documents and accounts. These findings will be discussed with the relevant regulatory authorities.

In response to certain difficulties experienced in the past by regulatory bodies in this State the report also suggests that responsible State Ministers and regulatory bodies endeavour to establish some protocol which will permit appropriate exchange of information and sharing of knowledge between respective jurisdictions. This proposal will be followed up in the appropriate forums. The Government notes that issues such as privacy and potential defamation claims may arise in this context.

The second matter investigated was whether there was any impropriety in the appointment of Genting as adviser to the Casino. The report finds that there was no such impropriety and specifically that Genting was not the source of a donation of $95 000 to the ALP in South Australia and that the decision by the Casino Supervisory Authority to approve the appointment of Genting was not influenced by the Government nor the result of undue influences.

The third matter investigated was whether there was any impropriety in the appointment of Aitco as operator of the Casino. The report finds that there was no such impropriety and specifically that the Lotteries Commission dealt with each application fairly and on its merits, that the decision of the Lotteries Commission was not subject to Government influence and was not influenced by any undertakings given by ASER in the course of the public inquiry into the site of the Casino. The report also finds that the acknowledged preference of the Government for the railway station site did not disadvantage applicants for the operational licence.

The fourth matter investigated was whether the contract between the Casino operator and Genting was appropriate. The report finds that the fee negotiated was commercially acceptable to both parties, was in line with management fees charged in comparable situations and therefore was not inappropriate.

The fifth matter investigated was whether the allegation that Genting directors were parties to the issue of a false prospectus should be further investigated. The investigation into these matters occupies a large part of the report. The report finds that the allegation should not be further investigated. Ms Nelson has made a positive finding that the Genting directors were not parties to the issue of a false prospectus, nor were they parties to the dissemination of false and misleading information, that the prospectus was not false and that the information provided was neither false nor misleading.

The final matter investigated was whether Genting was an unsuitable adviser to the Casino. The report finds that this is not the case and that there are positive advantages to the Casino in having such an adviser. The report also finds that no criticisms can be made of Genting respecting Genting's conduct within the Adelaide Casino or in respect of alleged undesirable associations Genting may have with anyone.

As a result, the report:

1. refutes the various allegations made against Genting;

2. refutes the various allegations made against the Government;

3. refutes the various allegations made against public officials and institutions respecting the process for the grant of the Casino licence; and

4. refutes any suggestion or allegation that the Government or any Minister has misled the Parliament.

On the other hand,the report also identifies the manner in which these allegations have been made and disseminated. It identifies the source of these allegations and makes trenchant criticisms of the persons responsible, including an interstate police officer. It also criticises some elements of the media for the manner in which some of the allegations have been reported, particularly during the investigation.

The report identifies that much of the material put before and used by the Opposition in making the allegations in Parliament was based, either directly or indirectly, upon those sources which the report criticises.

I commend the report to the House. It contains much information about Genting that is valuable and that should help South Australians to understand better the nature and the significance of this company and the environment within which it operates in Malaysia. It contains also much that is informative about those who have been Genting's detractors in this country.

There is a need for the community to remain vigilant against all forms of corruption. This inquiry should help to restore a sense of perspective to that process, however, by demonstrating how reputable organisations and individuals can be damaged if rumours and innuendo about them are too readily accepted. One of the benefits we can hope for from this inquiry is that those who are tempted in the future to repeat allegations of impropriety about prominent individuals and organisations will first take time to consider and check their sources.

I would like to thank Ms Nelson, who, despite the demands of a busy legal practice, has not spared herself in conducting this inquiry and who has in the process performed a valuable service to the community. I seek leave to table the report in two volumes, 1 and 2.

Leave granted.

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

That the report of the Inquiry into Matters Relating to the Establishment and Operation of the Adelaide Casino, prepared by Ms E.F. Nelson, LLB., QC, be authorised to be published.

Motion carried.

QUESTION TIME

JUSTICE DEPARTMENT

The Hon. K.T. GRIFFIN: I seek leave to make an explanation before asking the Attorney-General a question about the Department of Justice organisational change process.

Leave granted.

The Hon. K.T. GRIFFIN: A paper dated 9 September 1993 and prepared by Mr Tony Lawson, Director, Corporate Services, *pro tempore* in the Department of Justice suggests that a 'final recommended approach will be prepared for adoption and implementation by March 1994'. This refers to the development of an 'organisational change process' in respect of which Mr Lawson says there is an 'immense amount of work'. The paper makes a number of statements which suggest that the Government had undertaken no examination of its own goals and no significant analysis of the benefits or disadvantages of creating mega departments before creating them. The paper says:

> The underlying key principles in achieving the above (that is, elimination of duplication and the economies of scale) is to determine the core business of each sub-agency and, once this has been determined, to examine the range of remaining generic corporate/support services which may be integrated to provide services across the department as a whole.

The paper also says that the key principles of the organisational change process in the Department of Justice include the identification and analysis of core business activity, shared generic corporate/support services and collocation. In the first instance the paper indicates that the organisational change team is to meet with the Chief Executive Officer, the Head of Correctional Services and the Commissioner of Consumer Affairs to reach agreement on the principles and approach to the organisational change process. It then goes on to say:

> The process is likely to result in statements of:
> (a) vision, mission, values and role of the Department of Justice;
> (b) core business and strategic directions of Department of Justice.

All these statements, which I have quoted, and the tenor of the paper as a whole, indicate that the decision to merge various departments into the Department of Justice was taken without the Government's having any idea as to where it wanted to go. One could discern from the paper that the Government had no defined goals at the time when the decision was taken but cobbled the super departments proposal together at what might be regarded as short notice. It tends to reflect what seems to have happened also with the Electricity Trust and the E&WS Department merger which is currently being investigated by a committee of this Council. My questions to the Attorney-General are:

1. If a final recommended approach to change in the Department of Justice is not to be ready until March 1994, what further time will be taken to implement any change?

2. Is this time frame similar to those in respect of other new departments and confederations or coalitions, however they are described, and is the process for each new department similar to that being followed in the Department of Justice?

3. Can the Attorney-General indicate why the Government did not identify core business activities, costs and savings before implementing the mega departments restructuring?

The Hon. C.J. SUMNER: A number of the assertions made by the honourable member in his explanation are nonsense and have no basis whatsoever, and it should be put clearly on the record that that is the case. I have given answers in this Council and before Estimates Committees about this process previously and in significant public debate about it, but obviously the honourable member wants me to repeat it for his edification. I can assume only that he does not read *Hansard* or the daily press.

The fact is that the Government embarked on this aspect of its public sector reform process for overriding strategic reasons for the government and the management of South Australia, the purpose being to reduce the number of agencies and departments from more than 30 down to 12 operational departments and two central departments. That process is not something that has been dreamed up and done overnight. The Premier—

Members interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: Twelve months ago the Premier (when he became Premier) announced a reorganisation of Government departments. He announced the 'superheads' as being people responsible for the coordination of like activities within Government. That process went on until it was decided that it could be taken further by the actual amalgamation of departments, and that occurred earlier this year. A number have been announced and already integrated. The Department of Primary Industries, for instance, has been a very successful integration, bringing departments that perform similar functions together into the one department with operational units obviously dealing with the areas where operational expertise is needed.

As I understand it (certainly that is the feedback that I get), the amalgamation of the earlier Departments of Fisheries and Agriculture etc into the Department of Primary Industries has been very successful. Similarly, the amalgamation of departments into the Department of Housing and Urban Development has proceeded. They were announced earlier this year and they are in place. Just prior to the budget, the Premier announced the further process of amalgamation. He announced in the Economic Statement in April that, by June next year, there would be that number of departments.

Of course, it makes sense, because you are able to get a better overview of what happens in Government if you narrow the number of departments and the number of heads of departments who are responsible for implementing Government policy. So, instead of having to get 30-odd heads of department together, you get 14 who, in effect, perform the job of the Public Service Executive to implement the policies of Government. You have the capacity for better coordination and you have the capacity to set goals in a more effective manner.

I make no apologies about this reorganisation of departments. One can, of course, argue about the particular configuration. One might say that the Police Department could have been in the Department of Justice; Consumer Affairs could have been in another department; there are arguments about how you set up the new arrangements. But the process of bringing back the number of departments from the 30-odd to 12 operational departments was a desirable one, and the Government determined, in the case of the Department of Justice, that it should not include the police but that that should go in with fire and ambulance into an Emergency Services Department, and that Consumer Affairs should become part of the Department of Justice.

There is a number of advantages. One can see those firstly in the area of the sharing of corporate services and, ultimately, policy initiatives and the like. But there will still be business units within the Department of Justice just as there are within the other departments that have been amalgamated. So, there will be a Correctional Services operational unit that will run the prisons and the other correctional programs; there will be a Commissioner for Consumer Affairs, who will still have her statutory responsibilities; and there will be the Public Trustee etc., operating as operational units within the broad framework of the Department of Justice, although there will ultimately be a sharing of corporate resources.

I hope that there will be a common approach to policy and the like over time, but these things do not happen overnight. You make the announcement, take those broad strategic decisions—which we have done—and obviously there is a process of managing that change and producing the result desired.

The Hon. L.H. Davis interjecting:

The Hon. C.J. SUMNER: This is nonsense from the Hon. Mr Davis. He does not seem to be able to shut up.

The Hon. L.H. Davis interjecting:

The Hon. C.J. SUMNER: No, it is just that you are out of order. You are always out of order and interjecting. His private school upbringing does not seem to have produced many good manners. That is all I can say as far as the honourable member is concerned. He would be better off pulling his head in and making contributions.

Members interjecting:

The Hon. C.J. SUMNER: If honourable members do not look out, I will close down Question Time!

Members interjecting:

The Hon. C.J. SUMNER: That was a joke!

Members interjecting:

The Hon. C.J. SUMNER: Can't we do it here?

The Hon. L.H. Davis: Not unless there is a resolution of the Council.

The Hon. C.J. SUMNER: I am sure the Hon. Mr Gilfillan would support me. He would love not to have Question Time. If the Hon. Mr Davis would shut up and stop squarking and interjecting rudely, and out of order, I could get on with answering the question, which I think I have substantially done. Obviously there is now a process of bringing what were the separate departments together and it is expected that that should happen by March 1994, which is not a particularly long time. The amalgamated departments will have to go through their own process. At least two of them have been successfully concluded: the Department of Primary Industries and the Department of Housing and Urban Development. The important thing is—and I would have thought that the Hon. Mr Griffin would have agreed with this—that as part of that process we will be looking at what the core activities of the department are or ought to be, with a view to having the new departmental structure in place and ready to operate in 1994.

CARRICK HILL

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

Leave granted.

The Hon. DIANA LAIDLAW: I received a copy of a paper prepared by the Carrick Hill review team in January last year highlighting options for improving the cost effectiveness of maintaining the house, gardens, grounds and art collection at Carrick Hill. This paper has never been released by the Minister or the board and was forwarded to me anonymously. The review team recommends that the Carrick Hill Trust quit its current divisional status within the Department for the Arts and Cultural Heritage and become an independent or community based organisation; that $5 million be invested to provide income replacement for the loss of the current annual Government grant, which this year is $540 000; that the $5 million be raised by either the sale of development of appropriate land or the sale of real and personal property—for example, all or part of the collection of Australian, British and French paintings; and, lastly, that in the longer term staff be appointed on a contract basis.

Members may recall that in 1986 the Carrick Hill Trust investigated the sale of land to create a fund for the acquisition of sculpture. Stage 1 would have alienated eight blocks and netted $1.12 million. A total of 20 blocks (10 per cent of Carrick Hill's land) was identified as saleable, returning at that time, in 1986 prices, $2.185 million. A parliamentary select committee investigated and rejected the Stage 1 options. The report that has been forwarded to me notes that the 20 blocks that were identified by the trust in 1986 as potential sites for sale would return close to the $5 million, at today's prices, and that is the sum that they are seeking for this investment fund. I ask the Minister: is the controversial nature of this report the reason why it has not been released? Has the Minister and/or the board of the Carrick Hill Trust rejected the review team's recommendations relating to the sale of 20 blocks of land or all or part of the art collection, or is she and the board secretly pursuing these options behind closed doors?

The Hon. Anne Levy interjecting:

The Hon. DIANA LAIDLAW: The Minister interjects and says that there was a select committee report.

An honourable member interjecting:

The Hon. DIANA LAIDLAW: I heard you say 'the select committee report'.

Members interjecting:

The PRESIDENT: Order!

The Hon. DIANA LAIDLAW: You are getting very excited, anyway.

Members interjecting:

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

The Hon. DIANA LAIDLAW: It is true that the select committee rejected that option back in 1987 and the review committee nevertheless, set up by the Minister and the department, or at least with the Minister's support, has again recommended this option.

Has the review team noted that an independent organisational structure would lower Carrick Hill's overheads; provide a greater sense of purpose for the trust and greater community involvement; that it would also provide for greater flexibility to respond to commercial pressures; and implement nationally significant initiatives? Is the Minister satisfied that the trust, as a division of the Department for the Arts and Cultural Heritage, is realising its full potential or should this structure change?

The Hon. ANNE LEVY: Previously in this Chamber I have indicated that the reason the review committee's report was not released was that the board of Carrick Hill requested that it not be released. I do not know whether the honourable member has contacted any members of the board of Carrick Hill to tell them that she is preparing to make public what was in the report. I do not question her right to do so but it could

have been a common courtesy on her part to inform the board that she intended going against what she knew was its stated wish.

The Hon. Diana Laidlaw: I didn't know that.

The Hon. ANNE LEVY: I stated in this Parliament on several occasions that the reason the review was not released was at the request of the board of Carrick Hill. I am sure—

The Hon. Diana Laidlaw interjecting:

The PRESIDENT: Order!

The Hon. ANNE LEVY: —it would not be difficult to document that. However, the reasons it was not released were, as I say, because non-release was requested by the board of Carrick Hill and I acceded to its request. It is certainly true that the review made suggestions for setting up a trust fund and separating Carrick Hill from the Government, making it an independent organisation which drew its resources from this trust. This trust, as indicated, would need to have a sizeable amount in it, which the review suggested could be obtained by sale of property.

As the honourable member reminded us (as if we needed reminding) there were proposals to sell part of the land in one corner of the Carrick Hill property several years ago. A select committee of this Parliament rejected that proposal despite support from the Hon. David Tonkin and numerous other members of the Liberal Party. However, as that sale did not occur I can only presume that the Carrick Hill board felt it would be futile to attempt to implement the recommendations of the review by selling off land.

The Hon. Diana Laidlaw interjecting:

The Hon. ANNE LEVY: I said the board felt that to implement the recommendations of the report would mean selling off part of the land of Carrick Hill, either the area previously discussed, which is in one corner, or a different area of land of Carrick Hill. I can only presume that it felt that there was not much point in coming back to the Legislative Council to get parliamentary approval of that sale because the composition of the Council had not changed from the time of the first attempt to gain parliamentary permission.

The Hon. R.R. Roberts: The Liberals blocked that one, too.

The Hon. ANNE LEVY: Yes, the Liberals and Democrats decided that it was not appropriate for any of the land of Carrick Hill to be sold and, I presume, having had no indication to the contrary, they are still of that view. In consequence, the suggestion from the review committee was not very practical unless there was some indication of a change of heart on the part of members opposite. However, I may say—

Members interjecting:

The PRESIDENT: Order!

The Hon. ANNE LEVY: —that the board has firmly rejected any suggestion of selling any of the collections, as Carrick Hill is established as a gallery and its precious art collection was deemed by the board as not being suitable for sale. That is in fact one of the major reasons why Carrick Hill was donated to the people of South Australia in the first place and the collection should certainly be kept.

In consequence, the board has pursued other options with regard to the directions of Carrick Hill, and I may say that I fully commend the board for the very responsible attitudes it has adopted and for the very competent way in which Carrick Hill is being run and managed. I certainly feel that it is achieving the objectives which were established for it in the Act passed by this Parliament setting up the trust of Carrick Hill. I have heard no criticisms from any quarter as to the success of the board and management of Carrick Hill or the programs it is undertaking—the very exciting development which it is undertaking, in particular the development of the lake and the garden area near the lake. I know it has many plans for further development of the gardens, including further development of the heritage rose gardens and the heritage apple orchard.

The board is proceeding most efficiently to develop Carrick Hill in conjunction with Urrbrae House and has planned and undertaken several joint ventures with Urrbrae House—another heritage property within the area—which have been highly successful and very well regarded by all people who have attended those very interesting occasions. I repeat my confidence in the board and management of Carrick Hill and commend them for the programs undertaken. The board has certainly managed to live within its budget and yet, through re-organisation and careful pruning, has managed to undertake the considerable development programs which I have outlined. If the honourable member would like further details as to the future development programs for Carrick Hill I would be delighted to ask the board to provide them for her.

DISTINGUISHED VISITORS

The PRESIDENT: Before I call on the next question, I should like to welcome a delegation from Western Australia. The delegation consists of the Hon. Jim Clarko, MP, Speaker; the Hon. Bruce Donaldson, MLC; the Hon. John Cowdell, MLC; Mr Laurie Marquet, Clerk of the Legislative Council; and Mr Peter J. McHugh, Clerk of the Legislative Assembly. Welcome, gentlemen. I hope your fact-finding mission is going to your satisfaction.

AGE DISCRIMINATION

The Hon. C.J. SUMNER (Attorney-General): I seek leave to make a ministerial statement.

Leave granted.

The Hon. C.J. SUMNER: In the last session I tabled the report of the working party reviewing age provisions in State Acts and regulations, pursuant to section 85s of the Equal Opportunity Act 1984. During my ministerial statement accompanying the tabling of the report, I indicated that the recommendations regarding compulsory retirement ages would be the subject of a Bill this session and that I would present to Parliament a timetable for the implementation of the balance of the adopted recommendations.

The Statutes Amendment (Abolition of Compulsory Retirement) Bill 1993 was passed by this House earlier this session and is now in another place awaiting debate. The passage of this Bill will ensure that the abolition of compulsory retirement for public sector employees occurs at the same time as for private sector employees. Some of the matters dealt with in the report are wide ranging and will require a greater lead time to ensure smooth implementation.

The working party has considered certain provisions and recommended that they be repealed, reviewed, amended or retained. Each of these provisions needs to be carefully considered and the views of the agency taken into account, especially where the agency has an alternative view. Schedule 6 of the report contains provisions which the working party has identified as indirectly discriminatory on the basis of age. The relevant agencies have not had an opportunity to

comment on these recommendations and must be approached for their views in each instance.

Further, various regulations must be considered which contain references to age. It is my intention that all of the above amendments be put to Parliament as part of one package in the next session when all consultation has been completed.

SCHOOL CLOSURES

The Hon. R.I. LUCAS: I seek leave to make an explanation before asking the Minister representing the Minister of Education, Employment and Training a question about the closure of educational facilities.

Leave granted.

The Hon. R.I. LUCAS: In February of this year I first put on the Notice Paper a question asking for a list of all schools, kindergartens, TAFE colleges and other educational facilities which had been closed by this Government over recent years. During the Estimates Committee debates in another place, the Minister of Education, Employment and Training was finally forced to reveal some of the information on school closures which showed that during the last two parliamentary terms this Government had closed more than 70 schools. During the same period the South Australian Institute of Teachers has argued that—

The Hon. Carolyn Pickles interjecting:

The Hon. R.I. LUCAS: Are you denying that?

The Hon. Carolyn Pickles interjecting:

The PRESIDENT: Order!

The Hon. Carolyn Pickles: Tell us what you want to do.

The Hon. R.I. LUCAS: We do not want to close as many schools as you lot have been closing over recent years.

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: We do not want to continue with your particular record of closing schools as you are cutting everything all over the Public Service.

Members interjecting:

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

The Hon. Carolyn Pickles interjecting:

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

The Hon. R.I. LUCAS: I am not sure whether the Ministers have had private or Government school backgrounds, but they seem to be lacking in manners, as the Attorney-General indicated earlier in Question Time.

During the same period the South Australian Institute of Teachers has argued that up to 1 500 teaching positions have been cut from our schools. Sources within DEET (SA) have indicated to me that over two months ago the Minister's office was provided with the answers to my question on the Notice Paper. However, the Minister is refusing to provide those answers in Parliament. My questions are as follows:

1. Why has the Minister refused to provide answers to question No. 69 on the Notice Paper?

2. When does the Minister intend providing answers to this question?

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

ARCHITECTS

The Hon. I. GILFILLAN: I seek leave to make an explanation before asking the Minister representing the Minister of Housing, Urban Development and Local Government Relations a question relating to legislation controlling architects.

Leave granted.

The Hon. I. GILFILLAN: It has been brought to my attention by members of the architectural profession that there is a great deal of disquiet amongst them in South Australia regarding proposed changes to the Architects Act. These changes, developed by the Architectural Accreditation Council of Australia, are very significant. They include allowing a wide range of allied professions to call themselves architects (which I must say reflects on the Mutual Recognition Act that we recently passed, with the Democrats opposing it), compulsory continuing professional development, compulsory professional indemnity insurance, and other matters.

A special general meeting of registered architects, requisitioned by certain concerned members, was held on 24 August this year. At issue is the fact that the board has at no stage engaged in democratic consultation with architects on matters which so significantly affect their livelihoods and professional status and has persistently refused to put the so-called reforms to a referendum within the profession. I understand that the Minister (Mr Crafter) has had at least one face-to-face meeting with the Architects Board relating to the proposed changes, and in fact appointed a senior officer of his department to act as a liaison officer. My questions to the Minister are:

1. Is the Minister aware of the strong feeling among the profession that the board is taking an undemocratic dictatorial approach to this so-called reform?

2. If so, why has Mr Crafter not acted to coerce the board to engage in proper democratic consultation with those affected by the proposed changes? If not, will he make sure that such democratic consultation occurs before any further action is taken on the proposed changes?

3. Can the Minister explain the intention behind the proposed changes to the Architects Act? Is this yet another example of how the Mutual Recognition Act will erode the superior professional ethics and performance standards of architects in South Australia—

Members interjecting:

The Hon. I. GILFILLAN: —you might live to regret that when you build extensions on to your home in North Adelaide, Attorney—by reducing them to the lowest common denominator for the sake of national uniformity? It may be that the Attorney has some amendments to the Act himself, and that will be very interesting to hear.

4. Can the Minister guarantee that these proposed changes will not undermine consumer confidence or lower the standards of architectural services in this State?

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

FESTIVAL OF ARTS

The Hon. L.H. DAVIS: I seek leave to make an explanation before asking the Minister for the Arts and Cultural Heritage a question about the Adelaide Festival of Arts.

Leave granted.

The Hon. L.H. DAVIS: The October edition of the *Adelaide Review* contains a letter from Mr Stephen Spence, Branch Secretary, Media Entertainment and Arts Alliance. The Minister would remember that Mr Stephen Spence was recommended by her in controversial circumstances to the Adelaide Festival Board some months ago, but he never took his place on the board.

The Hon. G. Weatherill: You did a job on him.

The Hon. L.H. DAVIS: How could the Liberal Party ever do a job on someone so hard Left as Mr Spence? How could we ever tackle someone like that? In his letter Mr Spence claims:

> On 10 August 1993 I wrote to Arts Minister Anne Levy and asked her to withdraw my name as her nominee on the Festival Board. As I told the Minister, I simply haven't the time to waste on an institution that is so obviously in need of reform until the reform process has been completed.

Mr Spence further states:

> I do not intend to make it a priority in my life to help educate the members of the Adelaide establishment and to assist them in making the painful transition from the nineteenth century to the twenty-first.

Members interjecting:

The PRESIDENT: Order!

The Hon. L.H. DAVIS: He continues:

> They are simply going to have to learn that migrants, working people and trade unionists are a simple fact of life and that we long ago stopped tugging our forelocks to our elders and betters, even when berated by old has-been scribes—

there he is referring to Mr Peter Ward, who has made the odd comment about him—

> for having the audacity to be appointed by the Minister of the Crown to sacred boards.

In a final rhetorical flourish, Mr Spence States:

> An international arts party for the bourgeois elite, funded by the masses through their taxes, will soon be a thing of the past.

Does the Minister agree with the embittered and bilious remarks made by Mr Stephen Spence about the Adelaide Festival of Arts and its current board and, if not, why not?

The Hon. ANNE LEVY: I think the quotations read out in part by the Hon. Mr Davis perhaps suggest that Mr Spence should put in for a literature grant. He has this fine rhetorical flourish, as was indicated in interjection. His flow of language I am sure many members here have appreciated, and it may well be that he would come up to the high standard demanded by the peer review literature advisory committee which recommends literature grants to me. It is certainly true that Mr Spence wrote to me early in August, asking me to withdraw his name for consideration as my nomination for the Adelaide Festival board. He told me in the same letter that he had requested and been granted an interview with the Hon. Ms Laidlaw and she had told him that she had nothing against him at all. However, having cleared up that matter I would point out that, despite what the Hon. Mr Davis said, it was not I who made public the whole question of my nomination of Mr Spence, it was the Hon. Ms Laidlaw law and the attendant publicity did not come from any action on my part whatsoever. Subsequently to that time, as I indicated in the Estimates Committee hearings, which I am sure the Hon. Mr Davis has read, although he does not always seem to remember what he reads in *Hansard*, I had further discussions with the Chair and Deputy Chair of the Festival board and, as I am sure all members have noted, I have subsequently nominated Ms Gale Edwards as my representative on the Festival board.

Members interjecting:

The PRESIDENT: Order!

The Hon. Diana Laidlaw interjecting:

The Hon. ANNE LEVY: You don't know why.

An honourable member interjecting:

The Hon. ANNE LEVY: For very personal reasons.

The PRESIDENT: Order! The Hon. Ms Laidlaw will come to order and the Minister will address the Chair.

The Hon. ANNE LEVY: Yes, Mr President. I am just constantly amazed at how the Hon. Ms Laidlaw, even in interjections, will name people in this place and drag in personal matters which relate to private individuals in what I think is a thoroughly disreputable way which bears no relationship whatsoever to people's personal privacy and their right to have their own private matters kept to themselves. I think it is disgraceful. I have subsequently nominated Ms Gale Edwards as my nominee on the Festival board. Ms Edwards has accepted to be my nominee, and I am sure her very distinguished record as a producer, director—

The Hon. L.H. Davis interjecting:

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

The Hon. ANNE LEVY: —film maker and prominent artist in this country will more than adequately fit her for membership of the Festival board.

The Hon. L.H. Davis interjecting:

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

The Hon. ANNE LEVY: With regard to the—

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order! I warn the Hon. Mr Davis.

The Hon. ANNE LEVY: Oh, let's see if I can provoke him a bit.

The PRESIDENT: Order! Minister, I will warn you, too, if you carry on like that.

The Hon. ANNE LEVY: There has been considerable correspondence in various editions of the *Adelaide Review* on this matter and a whole lot of other matters relating to the Festival. It is a fairly long-drawn cannon shot battle in that there is only one publication per month, so that the return shots are necessarily slow in coming. However, as part of this sniping, Mr Spence has chosen to write to the *Adelaide Review*. His remarks and his views he is fully entitled to express, and doubtless there will be a return shot in the next edition of the *Adelaide Review* which will be awaited eagerly by all those who enjoy such long drawn-out dramas.

CHINESE TOURISM

In reply to **Hon. CAROLYN PICKLES** (5 August).

The Hon. BARBARA WIESE: The Minister of Tourism has provided the following response:

The potential tourist market from China is as the honourable member notes, huge.

However, it will be some time before Australia sees significant numbers of mainland Chinese visitors.

Traditionally new and emerging markets travel to the closer neighbouring countries and the Minister of Tourism expects China to do the same.

Nonetheless, South Australian Tourism Commission is aware of the potential of this market and has recently appointed a public relations company based in Singapore to explore opportunities for mainland Chinese inbound tourists once direct air access is established.

On a limited Asian marketing budget, the commission's short to medium term objectives remain at attracting visitors from the more mature markets of Hong Kong, Singapore and Malaysia.

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 liability of the State Bank directors.

Leave granted.

The Hon. J.F. STEFANI: On 15 December 1989, at an executive committee meeting of the State Bank, the liability of directors in the State Bank group was discussed. Mr N.L. Bertram, the senior solicitor, joined the meeting to discuss the matter. The meeting agreed that the bank adopt as a matter of principle insurance cover for company reimbursement and directors' and officers' liability on a group basis. The Chief General Manager, Group Risk Management, was to hold discussions with group members to determine the appropriate level of cover required.

At a further executive committee meeting of the State Bank held on 21 December 1990, matters for restricted circulation were reported to the meeting, including the review of insurance. The executive committee was advised by the Group Managing Director, Mr Tim Marcus Clark, that at a board meeting which was held on the previous day, 20 December 1990, the directors requested that an automatic reinstatement of professional indemnity insurance be adopted. In view of the possible legal action which is being contemplated by the special task force, my questions are: what type of liability insurance was effected by the State Bank group to cover the executives and directors? What is the name of the insurance company or companies which held their liability insurance cover? Have any claims been lodged against the insurance policy and, if so, what are the amounts involved? Who were the individual directors and executives covered by the professional liability and/or indemnity insurance, and over what period was the insurance cover effected? What were the amounts paid by the State Bank group for such insurance during the periods 1989-90, 1990-91, 1991-92 and 1992-93? What were the specific terms of the insurance policy in relation to the liability cover, and did the policy cover professional negligence? Finally, will the task force have any recourse against these insurance policies?

The Hon. C.J. SUMNER: The question of insurance referred to by the honourable member is being looked at by the civil litigation team and in due course, when decisions are taken on that matter, I assume we will be able to advise the honourable member.

WHYALLA HOSPITAL

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister of Transport Development, representing the Minister of Health, Family and Community Services, a question about Whyalla hospital.

Leave granted.

The Hon. M.J. ELLIOTT: Whyalla hospital has faced a continual erosion of its finances over the past several years. The hospital now estimates that in 1993-94 it will again be faced with funding cuts and the Government's failure to fund expected cost increases of about $340 000 a year in wage increases, inflation, superannuation guarantee levy and other foreseen rises. As well, I understand that the Health Commission's shared budget allocation to the Country Health Services Division will fall by $300 000, impacting further on Whyalla hospital's budget. It is inevitable that the hospital will have to find savings across the board.

Already, there is anxiety that the hospital's outreach services to other areas on Eyre Peninsula may have to be cut back. A $46 000 review by accountants KPMG Peat Marwick earlier this year looked at where further cuts could be made to the hospital budget, a cost equivalent to about two porters' jobs (that is the cost of the review and not the budget cuts). I have been told that, aside from the fact that it cost $6 000 more than budgeted, the review is seen by locals as just providing an excuse for the State Government to cut further into needed services.

Nursing staff, cleaners and porters have become increasingly frustrated at the increasing work schedules, which I am told are due to a reduction in hours, while the same amount of work is still to be done. Morale is low and stress is taking its toll, according to local medical sources. I understand that workers compensation claims have already cost the organisation $381 133 last financial year, with some claims still open.

It has been estimated that the hospital had to manage with about $1 million less in the total funding allocation for the 1992-1993 financial year after a budget which had to take into account salary rises and, for the first time, doctors fees. The last thing the hospital needs is another funding cut. I ask the Minister the following questions:

1. Will the Minister confirm that the hospital faces a funding cutback to its budget for 1993-94?
2. What is the budget allocation for 1993-94?
3. If a cutback in the budget is planned, what is the justification for the funding cut?
4. What was the funding shortfall from the previous year?
5. Has the ongoing welfare of Whyalla hospital staff and the area's residents been taken into account in the budget allocation?

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

HAY AND WOOL

The Hon. PETER DUNN: I seek leave to make a brief explanation before asking the Minister of Transport Development a question about the transport of baled hay and wool.

Leave granted.

The Hon. PETER DUNN: A carrier has contacted me and provided me with a letter, a copy of which I have here, from the Highways Department, and I am sure the Minister will recognise it. The letter was handed to the carrier at Port Augusta after his truck had been weighed during the normal course of events on that day. The letter outlines the special conditions required to be followed by the carrier when transporting wool and hay. The letter goes on to explain that 'the load may be a maximum width of 2.75 metres', that is, .25 metres wider than the maximum width permitted for the vehicle. The letter also states that times of travel will be between sunset and sunrise or poor visibility, and 'poor visibility' is defined in the letter. It also states that there will be no travel in the Adelaide area between 7 am and 9 am and between 4 pm and 6 pm.

It is interesting to note the reference to sunrise and sunset, yet there is 20 minutes of daylight after the sun sets and about 15 minutes of daylight before the sun rises. The letter says that carriers must abide by all other regulations and that a carrier must carry the exemption with him at all times. This carrier is somewhat concerned that these regulations may be strictly enforced, particularly now that this letter is being distributed.

Traditionally, most wool has been transported to and from country areas via road transport. Because much of this comes from outlying areas, transport times are considerable, necessitating some travel during hours of darkness. If this regulation is strictly enforced, two things will happen.

First, wool will be loaded long-ways, and not cross-ways, on trucks and trailers to comply with the width requirement, thus causing very unstable loads that may fall off. Secondly, loads will be carted only during daylight hours, and this will severely restrict the carrier's ability to use efficiently his or her rig, some of which are worth up to $500 000. Under the provisions the carrier would have to stop whenever the sun sets, just as many people do in this city. The extra cost such as overnight accommodation and inefficient use of a carrier's rig would have to be borne by the wool or hay producer. Therefore, my questions are:

1. Can the Minister give me any examples of accidents having been caused by loads of wool being carried during the hours of darkness in South Australia since 1991?

2. Why has there been this sudden will to impose this regulation when it has not been enforced since 1991?

3. Will the Minister review this regulation? If not, why not?

The Hon. BARBARA WIESE: Certainly, I am not able to give examples off the top of my head of such accidents, but I will have examined the matters that the honourable member has raised and bring back a report.

BUSINESS ASIA CONVENTION

The Hon. BERNICE PFITZNER: I seek leave to make a brief explanation before asking the Minister of Transport Development. representing the Minister of Business and Regional Development, a question about the Business Asia Convention.

Leave granted.

The Hon. BERNICE PFITZNER: I have raised this issue before and I will raise it again until the strategy is right. Whilst we must applaud the aims of the Business Asia Convention to woo our now affluent Asian neighbours, it is still the contention of a significant number of the Asian business community that the strategy of the Business Asia Committee is not culturally aware and is not making full use of the Asian community in Adelaide. For example, take the launching of the Business Asia Convention recently in an aeroplane: the numbering of the plane, translated into Cantonese, meant a doomed plane, and many invited guests did not participate.

Again, there was the Asia Business Convention launch in Darwin. This was poorly coordinated; for example, there was no media coverage, an Asian Immigration conference with numerous Asian delegates was held two days later and the launch could have coincided with the conference. Also, although a significant number of business people of Asian origin are in Darwin, there was not a single person of Asian origin at the Darwin launch except myself. The Director of the Business Asia Convention was present together with a consultant. One notes that the *Advertiser* editorial on 29 September warns:

> . . . the convention must not be allowed to become an opportunity for political gainsmanship. . . as nothing can be more guaranteed to turn off Asian business leaders than to be enmeshed in local politics.

However, some in the Asian community have stated that this statement has missed the whole point, as they say that nothing is more guaranteed to turn them off than a strategy which is not culturally attuned and which is culturally Anglo-Celtic, therefore possibly sending the wrong signals. Indeed, the editorial further states that 'adopting and adapting their technique' is important. That is true, but the editorial further states that we must 'beat the drum with style and conviction'—an Anglo-Celtic concept. The Asian community feels that we ought first to beat the drum to the right rhythm, that is, be culturally attuned. According to the Asian community, the whole convention is a rushed job to fit in with the political agenda rather than to increase the interest of Asian business people.

My questions are:

1. Is there a person of Asian origin on the organising committee? If not, what are the qualifications or background of the committee members in terms of knowledge of Asian culture?

2. How much did the launch in Darwin cost?

3. What was the necessity for the use of the consultant and how much was he paid?

4. Who are the overseas participants of the Business Asia Convention and what is their standing in the business community of their country?

5. How can we be certain that future strategies to promote the Business Asia Convention are culturally sensitive to Asian methods?

The Hon. BARBARA WIESE: The honourable member has raised a question of this nature in Parliament a number of times over the past few weeks, and I have distributed to her today a slip that indicates that I have a reply to one of the previous questions that she asked about the Economic Development Authority and what qualifications existed within that organisation to assist Asian business interests. If she had requested that reply before she asked her question, she may have found that some of the issues she is concerned about have been answered. However, I will refer that question to my colleague and bring back a reply.

HINDMARSH ISLAND BRIDGE

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

> That the seventh report of the committee concerning the inquiry into the Hindmarsh Island bridge project be noted.

The committee was handed a referral by the Parliament to inquire into five terms of reference that at the time did not make a lot of sense to me, having followed the whole question of the Hindmarsh Island bridge, but when the committee itself moved a slightly broader reference it tended to put all five references into some context and the report was then able to make a little more sense than had we just operated on the first five references. The first reference was why funds had been allocated to this project ahead of other priorities determined by the Department of Road Transport.

Basically, the summary of findings and recommendations was that the decision to proceed with the bridge was a Cabinet decision rather than a decision of the Department of Road Transport, and that is why the funds were allocated not on the priority the Department of Road Transport would set but on a priority set by Cabinet. I guess it was felt by Cabinet that it was not competing with the bridge projects in the Riverland that were so sorely needed by the Riverland

communities, that it was a standalone decision made to build a bridge that was being offered by the developers. So, in the original stages there was no competition for funds.

There should be a little more sympathy from members on the other side in that the funding of the project changed from being a project developed solely by developers to a point where it was being funded partly by Government and partly by developers and then, in the end, being fully funded by the Government. That in itself brought a mixed reaction not just to the prioritising of the project but also to many of the confused positions that were being developed, particularly in the Goolwa area, in relation to the bridge.

In the first EIS, as I understand it, it was not an argument about the bridge being built but about the nature and style of the bridge, and that the traffic flow had to be managed. That appeared to be the direction of play, and then the position started to change as the delays in proceeding with the bridge were noted. It was then that local people started to build up a campaign to oppose the bridge as the preferred method of transferring people from Goolwa to Hindmarsh Island, and it was when the project moved from the developer paying to when the Government was committed to paying that more opposition started to appear, particularly in the Goolwa area, to the bridge as the preferred method of transport.

It was quite clear to me during that process, during the number of public meetings that were being held and the amount of lobbying that I as an individual member of that committee was receiving and the committee itself received in terms of submissions both verbal and written, at the public meeting in Goolwa and at some of the meetings we held in the Riverside building, that a sustained opposition was starting to develop. I guess the funding uncertainties were being used to cover some of the arguments that people had from an environmental concern for Hindmarsh Island itself while others were concerned about the protection of heritage on the Goolwa side of the bridge.

So, you had a whole confusion of issues relating around those who were well intentioned in trying to protect the nature and environment of Hindmarsh Island and the heritage of Goolwa, and those on the other side who were pro-development who wanted the bridge so that the marina development on the western side of the island could progress and Goolwa itself could benefit financially from what many people in the area believed would be increased tourism opportunities. The scene was set for an internal argument between those who were supporting the bridge as a preferred means of transport and those who were opposed to it, whose argument was to maintain the ferry or to improve the ferry service, which would then restrict or limit the ability for development to occur on Hindmarsh Island so that the nature and heritage of the island would be protected.

While we were collecting evidence it was quite clear that there was concern that the bridge itself would accelerate the rate of change and growth on Hindmarsh Island and that the nature and conservation areas needed to be protected. It is unfortunate that the method of transport to Hindmarsh Island became the focus of the particular problems that people were trying to deal with in the area. Had the matter been dealt with in a more comprehensive and consultative way as the project progressed; had the information that was coming from departments, through local government and via the press generally been more informative; and had the sensitivities of those people wanting to protect the nature and heritage of both the island and the town been taken into consideration, I am sure that some of the heat could have been taken out of the argument over the method of transfer of people.

I suspect that there are lessons to be learnt for departments and for Governments, and particularly local governments, to take into account the competing nature of community resources for both development and conservation. It is not just the Goolwa area that I signal, for those sorts of arguments are taking place all over South Australia and all over Australia. It comes down to arguments locally about the development of resources, particularly for tourism, and the arguments between protection of environments for eco-tourism, the long-term heritage protection and the accelerated rate of investment for clear site development. In the main, there is a competitive use program that emanates out of any of those developments at most of those stages. With the departments themselves, particularly the new Department of Urban and Land Management, I think there are enough illustrations around at the moment, either in the 80s or in the early 90s, to signal that where projects are being put together that have a development stage or a phase that is in competition with either heritage or environment, which could include an eco-tourism program or project, those sensitivities need to be balanced and managed far better than the project that came before us.

The second term of reference was by the Department of Premier and Cabinet which assumed responsibility for negotiating the financial details of the project rather than the Department of Road Transport, as is the normal practice for road construction initiatives. I suspect that when the developer, Binalong, began to have difficulties with the funding of a bridge its principals went to the Government for assistance and that Partnership Pacific, a wholly owned subsidiary of Westpac, was determined to cease financial backing of the marina development unless the Government would take over financial responsibility for the construction of the bridge, and that that was a major part in swaying the Government to go part-payment for the construction of the bridge. At this stage, which was after the Cabinet approval, the Department of Premier and Cabinet assumed responsibility for the project and gave undertakings to Westpac that the bridge would be constructed. So point two of the reference was basically due to the difficulties that the principal developer was having in securing finance to pay for the promised bridge.

Point three of the reference concerned the details of the financing arrangements, including long-term financial exposure to taxpayers of South Australia, and I guess that needed to have a few more words considered. We considered that and we found that the changing nature of the financing arrangements and the deed that had been drawn up was also adding to the consternation of people in the area and that they were confused by the deed and the responsibilities of local government and the developer, and were not able to get clear detail on just what individual responsibilities were for developers like that; and that is State and local government. I am sure that, had a better structure been put in place to explain the details to local people, either via local government or via the departments, some of that confusion may have been alleviated. However, when the content of the deed was explained to the committee, I do not think—and I am not sure about other honourable members who were on the committee—that that did much to satisfy or explain the content of the deed because the deed was very complicated and written in a very legalistic way, which would have taken a lot of transposing to clarify the matters on people's minds, particularly people in the Goolwa area.

Point four of the reference concerned the benefits that were to be delivered by Binalong Pty Ltd in the building of a bridge and the propriety of the Government's decision in conferring, essentially, private benefits at taxpayers' expense. The summary of recommendations takes that point on board and the term of reference shows that Binalong has received the benefit of the current financial arrangements whereby the Government has agreed to take over the financing arrangements of the construction of the bridge, without which Binalong's marina development would not be able to proceed to stage two. Written into the document was the condition that stage one could continue without the bridge and that stage two was contingent on the bridge being built. I think it was only after 149 blocks were sold that stage two could proceed, that it could only proceed after the stage one development had been sold. The stories that we were told and evidence that we received certainly indicated to us that it was an accelerated fire sale of blocks at less than market prices to make sure that stage one had been sold. Prices as low as $5 000 were mentioned. We never did take evidence or receive information to support these references. There were certainly a lot of people saying that the blocks were going well below market price to make sure that stage one was completed.

Term five of the reference asked why the timetable for calling tenders in August and September 1992 for work to commence in November 1992 and for work to be completed in November 1993 had not been met, including the cost implications of the delay in completing the project. We found that there was no evidence of substantial costs related to the variation of the original timetable. It was far more important to resolve the outstanding issues surrounding the bridge before proceeding. In fact, we found that the overall cost of the bridge was well within what are regarded as market prices. From the evidence we received from the Department of Road Transport it appeared that if the bridge came in at the cost put forward the Government would be getting good value for its money in relation to the cost of the bridge. I guess the cynics would say that the costs are quite low and that nothing ever comes in within the price ranges suggested. The committee could not make any comments on that. We could only make the comment that the departmental people who were giving evidence were certainly confident that the price range given to us was accurate and that it would be a very good time to accept tenders on the basis that it was the cheapest long-term option.

Again, the arguments at a local level became involved in comparisons, and I guess the overall question of heritage and environment versus development came into play. People were saying that the costs of maintaining and running either a second ferry or a super ferry would be a far better option than building a bridge and that the cost comparisons presented to the committee were not accurate. I will not go into that in too much detail but I will simply allow people to read the report themselves and make their own assessments, because the figures are included in total in the report. However, at any other location I would think that if you were considering whether to build a bridge or to run an extra ferry—and not taking any of the conservation and heritage matters into consideration—you would go for a bridge, in terms of cost alone.

There was a different emphasis placed on the other matters that the Environment, Resources and Development Committee looked at in relation to environmental protection and there was a different argument as to how you protect the nature of the island or sections of it. Without belabouring the whole of the report the key to the report and the key to the problems associated with the building of the bridge and/or the running and maintaining of the ferries gets down to the concerns people have in maintaining the potential for ecotourism in the area and protecting the heritage and environmental ecosystems that prevail in the area.

Every member on the committee, including me, came down on the side that whatever further development takes place on the western side of the island the total eco-network existing at the Murray mouth and around Goolwa needs to be protected to enable the whole of the environmental package in that area to be protected. We took evidence from the Department of Environment and Planning and we also looked at some of the international agreements associated with the protection of birds. The committee found that many migratory birds needed protection and that many ecosystems in the area were very fragile. If there was an accelerated rate of development in the area that included speed boats and increased use of incompatible living lifestyle programs then the ecosystems in those areas would suffer.

The whole argument now gets down to how the nature of the island needs to be protected: how existing use, plans as to how the development around the marina is to be implemented, and concerns for the environment and heritage can be integrated. As I said, it is not only in the Goolwa area that those arguments and programs need to be put together in a cohesive way but in all parts of the State where competing use programs or regimes are being looked at.

There are areas of the State that need to be left in complete wilderness without any development at all for passive recreational purposes. Tourist development and local use by South Australians and Australians need to be supported and those fragile environments looked after. I am sure that there are some areas of the Murray mouth that need that sort of protection. There are other areas that can sustain lighter development projects and some rural living programs, and they need to be identified and legislatively protected. There are other areas where development can go ahead without any damage occurring to any of the natural resources and they need to be recognised and supported by local communities in developing employment opportunities for local people. If there are any lessons to be learnt out of the project at Goolwa it is for all groups and organisations to get together, to put their agendas on the table and talk about them honestly and openly so that logic can play a part in identifying those three distinct areas I have just mentioned.

If it is a wilderness area then it needs to be protected and that needs to be clearly stated and clearly announced. If it is part development, part protection, and part ecotourism then that needs to be identified, put on the table and a management plan developed. If it is development that will benefit people locally and/or more broadly the rest of the State then that needs to be identified as well. Those projects then need to be given as much support and assistance not only from local government but State Governments and in some cases Federal Governments. They need to be identified so that those programs can be put into place in the best possible way.

The worst possible case is competitive use groupings and lobby groups who go into corners—and in some cases they are forced that way. I am not saying it is the fault of the environmental groups and the local people themselves; sometimes the projects put those people into positions where they have no alternatives. However, I suggest that in any other project or program local government should be the

facilitator and provider of information; it should keep local residents informed; and it should become the bridging factor between the State Government and local residents.

Where there are competitive use problems then they should be talked through and logical conclusions should be drawn based on peoples' ability to argue, to state their case and to clearly identify those areas. The areas should be mapped and a stocktake undertaken of the environmental resources that exist in those areas so that classifications can be given to them. A logical pattern or plan for prevention of eroding any of those support mechanisms then needs to be put in place. If any lessons are to be learnt then that is one strong lesson for the future: as much information as possible should be provided to local communities through the departments, through local governments and that hopefully you can avoid the friction that occurs at a local level when development projects either proceed or are withdrawn.

The Hon. PETER DUNN: Mr President, you have been given a very exacting resume of what actually happened in the committee by the Hon. Terry Roberts and I would like to back him up in a lot of the things he says. I preface my remarks by saying that I have no problems with building a bridge to nowhere, or a bridge to the Hindmarsh Island if the developer were to pay for it, but in this case a private development is being supported by the Government. I do not have many problems with that but there was a lot of opposition from the public. The vast majority of the public attending the meeting in Goolwa did not come from Hindmarsh Island; they were outsiders and people who were interested in the ecology of the area, etc., but more of that later.

I think the problem was caused by Cabinet, more particularly the Premier of the day. I think his mind was occupied with other things, like the State Bank fiasco. Beneficial Finance had toppled over. It was part of the State Bank and to stop any further query I think he negotiated with Partnership Pacific to pick up the debts for Beneficial Finance, in particular this development Binalong, and in so doing he capitulated without any debate, without any argument, as to the building of this bridge.

One of the requirements by Partnership Pacific was that the Government build the bridge and then Partnership Pacific would continue to finance the development for the Goolwa marina. The interesting thing is that there has been a deed written up between the Government, local government and the proprietors of Binalong and it is the most complex document I have ever witnessed. It certainly looks as though it has been written up by a Philadelphia lawyer.

I had some legal advice whether the document was workable or not, and that advice was that it may be. It is certainly a long and complex document. If it works well, that is fine, but I have some doubts about it and the committee certainly had some doubts about it. I guess that the recovery of the cost of the bridge is the critical matter. That has subsequently been brought in at about $5 million, although it was touted to be $6 million.

The Hon. K.T. Griffin: Good tendering.

The Hon. PETER DUNN: Yes, good tendering, and in these tough times you would expect that. That $5 million will have to be recovered by further development of the marina. It will be a levy on the blocks provided and any other areas where small marinas or developments are built.

There is a need to service the island. People have been living there for probably more than 100 years so there is a need to get across there. However, the committee decided that, taking all things into account and looking at it objectively, it would have been easier to put in a second ferry. It is only at peak times that we need—

The Hon. Barbara Wiese interjecting:

The Hon. PETER DUNN: The Minister says that it was more expensive. That is her advice and that is the advice that we received. However, the committee challenged the people who were giving that advice and suggested that there was no necessity to build a new ferry because there are spare ferries at Mannum.

The Hon. Barbara Wiese: The Department of Road Transport indicated that is not true.

The Hon. PETER DUNN: The Department of Road Transport said that spare ferries are used when other ferries break down in order to supplement them. They are sitting there for long periods of time. I suggest that one ferry from there could fill that position, even if it were taken away during the winter months when it would not be necessary.

The Hon. Barbara Wiese: And when another ferry breaks down—

The Hon. PETER DUNN: No, there are two ferries there. All it requires is another group of people to fix up the broken down ferry. Surely you are not so bereft of money that you cannot keep your ferries running with the normal maintenance that takes place on anything mechanical that is used. If it has constant maintenance, there is no necessity to worry about having two back-ups for it all the time. Furthermore, if you had been half smart and got the money from the Federal Government and built the bridge at Berri, you would have had four ferries there, one of which could have gone there. There were alternatives. All that was required were the earthworks. I believe that the cost put on the earthworks by the department was extremely high. As the bridge is coming in under quote, I suggest that the lead-up to a second ferry could have come in under quote as well and it could have been cheaper than was suggested. The committee thought so anyway, because that was in the report.

However, the Government has unilaterally decided to build the bridge. That is fine; it has to wear that. But it is now going out of Government, as is fairly obvious when we look around, and someone else will have to pick it up. Be that as it may, the committee went into the matter fully. We had a public meeting at Goolwa, at which there were more than 200 people. The impression that I gained from that meeting was that there was a great deal of objection to the bridge. I found some of the objection difficult to understand. People were worried about the eco-system, the birds, the roads and the infrastructure, but I think all those things could have been dealt with. I believe they can be handled, even with the bridge. In fact, they will have to be handled. The roads will have to be upgraded, but I hope that they will not go to the environmentally tender areas. We will not be disturbing too many birds or the areas where they nest. My observation has been that if you put in small sealed roads—they do not have to be of a high cost or built up too much—people will stick to those roads and not hare off into the unknown. With a good education program, you can restrict four wheel-drives to certain areas.

There was a lot of argument about the aesthetics of the island being spoilt and farmers argued that their life-style would be upset. I think that all of those things could be handled. However, they were real problems in the minds of the people who were presenting that evidence and we had to take that into account. The island is very close to the metropolitan area and it is now easily accessible by road vehicles.

Therefore, when the bridge is built, we can expect that many people will want to go and look at the island.

The committee suggested a second ferry, and I think that is a good interim measure. It is not a solution, but it is a good interim measure until we can have a closer look at what is going on. That may have held up the development of the Goolwa marina for a short time, but we suggested that perhaps it would not. However, because the former Premier and Cabinet had locked themselves into this agreement with Partnership Pacific, I guess you were between a rock and a hard place; you could not get out of it and you had to build the bridge. In my opinion, however, you would have been well advised to accept the advice of the committee, take a second look at it and try to cure the problem in that way.

I have no doubt that in the long term there will be a bridge from Goolwa to Hindmarsh Island, but it is probably ahead of its time at the moment. If the developer wanted to build that bridge, I would have had no argument provided he put out an EIS that indicated it was all right to do that. The EIS indicates that the bridge could go ahead, but it did not look at the whole of the island. It looked at the development area, not the back of the island.

The developer's viability came into question, and we looked at that aspect. I do not know whether the developer is in financial difficulties because we did not ask about that, but Partnership Pacific may sell that development to somebody else and I suspect that the development will go to another State. It will certainly be very attractive to those people if there is a bridge to the island, and I am suggesting that the Government is building something for the benefit of an outside developer to come in and take over. I reiterate that the committee suggested as an interim measure that another ferry should be put in, then a review of the situation and in three or four years, when there may have been some changes, we could have a more detailed environmental impact statement and suggestions to overcome some of the problems that I have raised.

I support what the committee suggested to this Parliament. I am disappointed that the Government did not look at it more favourably. However, as I said, it has decided unilaterally to build the bridge. The bridge obviously will be built and we shall have to overcome the problems that it will cause from time to time. There is nothing unusual about that. In the 10 years that I have been in this Parliament I have found nothing unusual about that. The Labor Party works like that. It fixes a problem as it occurs; it does not look very far ahead. It is always more difficult to fix any problem unless you plan well ahead. I do not think that it planned this very well, as was obvious from Premier Bannon's negotiations with Partnership Pacific to pick up the financing of Binalong and the Hindmarsh development. I recommend that the Parliament should accept the report brought down by the Environment, Resources and Development Committee on the Hindmarsh Island bridge.

The Hon. M.J. ELLIOTT: I rise to support the motion that the report be noted. Having been a member of the Environment, Resources and Development Committee which examined the terms of reference, I am absolutely convinced that the building of the bridge to Hindmarsh Island is a drastic mistake. It is worth noting the origins of the construction of the bridge. It was the Premier's Special Projects Unit, now disbanded, although the major players have now gone on to bigger and better things. Some are facing academic futures while others have gone to the multifunction polis or the Economic Development Authority, continuing to bless us with their great wisdom.

However, the Special Projects Unit, and not the Transport Development Department, was the major promoter of the construction of the bridge. It is for that reason that we found in our report that indeed it was a political decision; it was not a priority set by the Department of Transport. In fact, the bridge was a relatively low priority and understandably so, when one considers that Hindmarsh Island, at least until the construction of the marina, was not an area of great economic significance, and certainly, when one compared it with the economic significance of building a bridge at Berri, it paled into insignificance.

The Premier's Special Projects Unit, the Premier and Cabinet decided in their wisdom that this project was to be given special priority and as such moneys were to be allocated from transport funds to construct that bridge. I must say, without going into all the details—and anybody who wants to go into those can read the committee's minutes or the transcript of the proceedings—that I really do not understand how the Government allowed itself to get tied in so tightly by way of legal agreement as it managed to do.

This is not the first time in recent years that the Government has done such a thing. The Craigburn Farm development immediately comes to mind as another case where the Government made a commitment to a project and tied itself in legal knots from which it could not extricate itself, even it if it had the desire to do so.

I do not believe that we ever really found out why the bridge is being built. I always had a suspicion that indeed there was some financial commitment which the Government was not willing to admit publicly and which was the major driving force behind its wanting the bridge to be built. In questioning witnesses, we found one person who in the manner of his answer hinted that perhaps there was a far greater Government exposure to Binalong than the $5 million or thereabouts that was publicly acknowledged.

Attempts were made to ascertain what that figure was, but it would be fair to say that we met a wall of obstruction in relation to that question. In fact, an answer was not given to the committee until after the committee's report had been prepared, and the answer came in off the record. So the public to this day still does not know whether or not there was a greater exposure than that which was publicly admitted.

It is fair to say on the record that one witness in his evidence hinted that perhaps there may have been something more, and the committee tried to get to the bottom of it, but I cannot report to this place what the true situation is. I must say that I find that highly unacceptable, because I think the Government has misbehaved in relation to our seeking answers here.

While I am on the subject, I might mention one other problem which this committee had and which I believe relates to Government misbehaviour as well. We wished to do some analysis of cost-benefit; we wished to have somebody with some understanding of tender processes and costings. As we are entitled to do under the Act which established our committee, we requested extra staffing assistance; a person arrived for one meeting of our committee—in fact, the day we went down to Goolwa to get our evidence. We did not see that person again; in fact, we were never given additional assistance, although we requested it and were entitled to do so under the Act.

I suspect that the denial of that assistance was most likely illegal and at the very least the Government was obstructive

in not providing that assistance. When the Minister by way of interjection in this place in discussions at a another time on this matter cast aspersions on this committee and any suggestions we tried to make about costs, and said that we did not have the skills or ability to examine it properly, the committee acknowledged it had some difficulties, sought assistance, and the Government denied that assistance. I thought she had extreme cheek to make the interjection she made.

The construction of the Hindmarsh Island bridge is wrong on three counts. It is wrong on the basis of cost, on the basis of impact on tourism and in terms of its impact in relation to the environment, and I will look at those three aspects in turn. Acknowledging that the committee had some difficulties in relation to cost analysis, one did not have to be a genius to realise that the Government's figures provided by it in relation to the cost of the two-ferry alternative grossly overstated the cost of running that service. It was wrong in two ways. It was wrong in terms of capital cost, and grossly overestimated the cost of the installation of an additional ferry, because the works there are relatively simple; and it was wrong in terms of the provision of an additional ferry, something on which the Hon. Mr Dunn has already touched.

While it is true that the spare ferry at Morgan has to be available for use elsewhere, it is sitting in the water, and it may as well be sitting in the water at Goolwa as at Morgan and be available for peak time use. It is also worth noting, as did the Hon. Mr Dunn, that a number of other ferries should become available when the Berri bridge is built. It will be built, and it will be built within a few years, whether by way of State or Federal funds, as part of the national highway construction program; the bridge construction is now a foregone conclusion.

The costings comparing the ferry with a bridge were made over quite a significant time period, during which time these ferries would have become available and therefore not a significant capital cost.

Of course, the costings in terms of operation were way off the planet. As I understand it, the second ferry would need to be run on only about 27 days of the year and only at particular times of the day as well. So, we are not talking about having two full-time staffed ferries; we are talking about having one ferry staffed all the time and another ferry needing a person on it for a relatively short period of time.

So, the operational cost of a second ferry would be absolutely minimal. The other side of the argument is that, if we choose to put in a ferry, the committee recommended that a toll be considered. There were a number of reasons why we would like to see a toll, and I will get to that later. A toll is one way of addressing the cost in any event.

As to tourism, the bridge is a grave mistake. If any private developer wanted to put a four-storey building at the proposed bridge site, I am sure the Department of Planning and Development would tell that developer to go jump. The department would point out that it is a heritage zone with a heritage wharf, with steam trains passing through the area as a major tourist attraction, as well as paddle steamers pulling up at the heritage wharf. Yet now we will have a modern construction of four storeys not simply sitting on the site but leaving the site and heading across the river. The development is so far out of character with the area that it is unbelievable that the development has been allowed, but it has been allowed.

In terms of the attractiveness of the site and the maintenance of the heritage character, the development is totally wrong. It is also worth noting in regard to the current state of the island and the interpretation at the mouth that the only reason one would go to the island, unless one lived there, would be to travel on the ferry. As a tourist experience, my children have enjoyed the ferry on a couple of occasions, and the ferry is probably what they enjoyed more about Hindmarsh Island than anything else.

I would not be surprised if within another decade a few ferries were installed around the State as tourist attractions, in the same way as we have said about retaining the wharf and having paddle steamers and the steam train operating there.

Those things are there not for ordinary economic reasons but for tourist/economic reasons, and the maintenance of heritage is important. Certainly, the bridge cannot have been put in a worse place if we were trying to maintain the heritage aspect. Having two ferries would have maintained the distinctive feel of the place and would have provided a tourist experience in its own right, as well as the maintenance of the heritage factor.

As to considerations of the environment, several people commented to me outside the committee that the EIS in relation to the development and the bridge was the most rapid that they could recall. Certainly, I was staggered when the Chief Wildlife Protection Officer from National Parks and Wildlife Service was one of the witnesses, and in reply to a question he told us that he had never been consulted about the environmental impact assessment.

When we consider that we are talking about an area in relation to which the Federal Government is a signatory to two international treaties—one with Japan and one with China—recognising these areas as being wetlands of international significance, and when we realise that at a national level they are among the most important wetlands in Australia (and that is why they have international significance), it is incredible that the Chief Wildlife Protection Officer for the National Parks and Wildlife Service was not even consulted about the EIS, we know that the EIS had to be done extremely badly. That underlines the situation more than almost anything else.

As a document, in terms of examining the off-site effects of development, it was a disaster among disasters. The EIS process in South Australia has always been considered to be a farce, and this statement was just a more extreme example of that. In terms of the protection of the environment it is worth noting that there is already pressure on not just for the marina that is now being developed by Binalong but for a series of marinas and other developments also on the island.

A large number of the people who came out publicly and supported the bridge owned land on the island and wished to develop it. It is reasonable for them to want to do so, but at least—

The Hon. Barbara Wiese: Just a handful.

The Hon. M.J. ELLIOTT: There are just a handful who are serious about wanting the bridge. The people who spoke publicly—

The Hon. Barbara Wiese interjecting:

The Hon. M.J. ELLIOTT: Let me finish. Of the people who spoke publicly in support of the bridge, the major figures were owners of land who wished to develop it; a Goolwa land agent (and one does not have to be a genius to work out his interest in it); and other small business people who, I think, have a mistaken belief that they will get more business in Goolwa because of the bridge. I believe that they will get less

business in Goolwa because of the bridge. This is absolutely foolhardy.

The next pressure will be for an increasing number of traders to locate themselves on the island. Already a couple of commercial operations exist within Binalong itself, and there will be more. So, although these stupid local traders think they will get the extra business, if there is any—I think there will actually be less business—that is not what happens in the real world.

In the real world, if there is additional business, other people shift in and take it over. The local traders will not be beneficiaries. If there was increased business, I believe the reverse situation would apply. If there is any demand for blocks on the island, it will simply replace demand for blocks elsewhere, and a large number of vacant blocks already exist in the Goolwa area.

I was saddened to learn that when the Chapmans were first considering building a marina—the marina itself as marinas go is a decent one—they were offered and encouraged to take a mainland site. They decided not to do so, and their decision has driven everything that has happened subsequent to that.

I am concerned that we will see a series of developments along the northern and western side of the island so that people who come to South Australia to see the Murray Mouth and who decide to take a trip on one of our paddle steamers will travel upstream past a whole series of marina developments. That would certainly be a wonderful scenic experience for visitors; it would be something that they could not see anywhere else in the world; and that is why they would obviously come to South Australia to enjoy it.

A second ferry as an alternative to the bridge is attractive on the basis of cost. The cost for the second ferry was grossly overstated. We have the capacity to collect a toll, and I believe a toll should be collected, anyway. I was somewhat sceptical about the introduction of tolls at Belair National Park, but they have proven to be a boon on two grounds. First, hoons are not willing to spend $3 to take their car into the park, and I guess they would not be willing to spend $3 to take their car on a ferry to Hindmarsh Island, either. Therefore, a toll is a great disincentive to hoons but it is also a great way of raising money that can be used not only to offset the cost of the ferry but also for interpretive work on the island, particularly at the mouth, which is sadly lacking any proper interpretation, and for other upgrading work that is needed on the island.

The ferry is an attractive concept because it reinforces rather than undercuts the tourist attraction based largely upon heritage aspects of the area. The ferry concept is a boon because it has no negative impacts on the environment.

Also, the absence of a proper management plan for the island is a disgrace. It is something that we have been promised, but such a management plan will have to be affected because of the consequences of the decision to build a bridge. Nevertheless, the plan needs to be a priority. We have to question what further development we will encourage on the island. The issue is not to develop or not to develop but where to develop. These are questions that this Government has repeatedly refused to distinguish between.

It is not whether or not to develop but where to develop, and that issue really needs to be raised in relation to Hindmarsh Island. It is my belief that development should be encouraged back between the Victor Harbor-Goolwa area and not for this spread to continue eastwards as it has, starting at Victor (which was the first noted development), spreading through Goolwa and now going further to the east. I know that there was consideration at one stage that the building of a bridge and work on the barrage, which is due for replacement or at least to have substantial work done on it within a few years, could have been done in conjunction. Had that occurred I believe there may have been some significant cost benefits.

Quite clearly, that overcomes my concerns about the impact on tourism, particularly via the impact on heritage areas, and also it would give us a couple of years to consider very carefully—something that has not happened up to now—precisely what it is we want to do to Hindmarsh Island and the surrounding waterways. We do not want retrospective planning: we want planning in advance; and that is something that has been lacking. Somewhere along the line we must stop and take the time to do it. In summary, the committee made it quite plain that it believed there should be a reassessment of the decision to build a bridge. When I was sharing a radio program with the Minister she said we did not need to reassess because we had already done it. Reassess means to do something—

The Hon. Barbara Wiese: I did not say that. I said we have reassessed. Many of the issues you raised had already been considered and other matters had been reassessed, and the fact that you do not like the result does not mean it did not happen.

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

The Hon. M.J. ELLIOTT: I stand by what I said: I have seen no indication that there had been any reassessment. If there has, I would like the Minister to give me the new figures she got in terms of the cost of the ferry, for instance, and in terms of other matters. I would like to see copies of any reports that suggest that the committee is wrong in this regard because it did not do this, that these are the correct numbers, etc. There was not any realistic reassessment. The fact is that the Government chose to ignore an all Party committee, one that has attempted to be open-minded on this as it has on all subjects, but I must say that I suspect that the Government members of the committee are probably as frustrated as the others, because repeatedly the committee process that the Government itself set up it has then chosen to ignore.

It indicates that in a little over a decade the Government has learned nothing. If it does not know why it got into trouble in relation to the State Bank and other matters, it is because it has never been willing to stop long enough to listen. I support the motion that the report be noted. I express great regret that the report was ignored.

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

ENVIRONMENT PROTECTION BILL

In Committee.

Clause 1 passed.

Clause 2—'Commencement.'

The Hon. DIANA LAIDLAW: I am aware that a new set of regulations is now being circulated although I have not seen a full set. What date is proposed for the commencement of this Act, in light of the fact that these amendments have been circulated for consideration?

The Hon. ANNE LEVY: I understand that the regulations for this Bill have not been drafted as yet; it is the regulations to the Development Bill that have been drafted and circulated.

The preparation of the regulations for this Bill obviously must await its passage through Parliament. It is expected that this legislation will be proclaimed some time within the first three months of next year.

Clause passed.

Clause 3—'Interpretation.'

The Hon. ANNE LEVY: I move:

Page 1, after line 22—Insert definition as follows:
'activity' includes the storage or possession of a pollutant;

The Government feels it is desirable to include this new definition to ensure that no confusion exists in relation to the general environmental duty under clause 25. Clause 25(1) uses the expression 'undertake an activity' which could be argued to infer that a positive action is required, but the amendment ensures that harm which can arise without involving positive action but involving a failure to take action, such as the storage of hazardous wastes, leakage or leaching from waste which is on a property arising from a discontinued use, will in fact be part of the responsibility to be considered under the general duty of clause 25; that there are acts of omission as well as commission.

Amendment carried.

The Hon. DIANA LAIDLAW: I refer to the interpretation of 'business', which provides:

. . . includes a business not carried on for profit or gain and any activity undertaken by Government or a public authority.

'Public authority', in turn, includes a Minister, statutory authority or council'. Can the Minister confirm whether this reference to public authority also includes a number of councils working together, for instance a regional authority, or would that be seen as a public authority? I was thinking in terms of the waste management initiatives in the northern suburbs that have been undertaken by a northern development board, but I do not necessarily see that as a statutory authority or bar council.

The Hon. ANNE LEVY: I understand that such a board would be regarded as a statutory authority as it is created under the authority of the Local Government Act.

The Hon. DIANA LAIDLAW: I refer to 'domestic activity', and my colleague in the other place, the member for Coles, raised the matter of recreation activity. I have spoken with her since and she was keen for me to pursue this matter because the Minister in the other place indicated that it would be something that would be considered further by the Government. The member for Coles suggested that there are business activities and domestic activities but not recreational activities noted here. She expressed surprise, as I do, that activities such as the Grand Prix, trail bikes, jet skis, motor boats, or even cars without mufflers or cars that have been hotted up, would in fact not be a business activity or an activity undertaken in the course of a business. It is stretching the imagination to believe that it would be a domestic activity. All of these matters are related to noise. Can the Minister advise on what discussions have taken place since the Bill was in the other place and will she clarify why the Government has not moved for the addition of reference to a recreational activity? I have looked at the Bills in New South Wales, Western Australia, Tasmania and Victoria which relate to environmental protection authorities. None of those Bills has any reference to domestic activities, let alone to recreational activities. I am wondering why this has been deleted or not included.

The Hon. ANNE LEVY: I understand consideration was given to this matter. The decision not to change it was based mainly on the fact that recreation activities are not specifically mentioned in the Bill at all and that the definition of domestic activity which is given here would encompass any such activity. Such activity, for the purpose of this Bill, is defined to mean any activity other than one undertaken in the course of a business. The particular cases to which the honourable member has referred would be covered, if required, by this particular definition.

The Hon. DIANA LAIDLAW: I think it is stretching the imagination to believe those activities that I highlighted related to what would commonly be known as a domestic activity. The fact that the Government has chosen to not make reference to recreation activity does not lessen the relevance of having such a reference in this Bill and having it referred to as a domestic or recreation activity throughout the Bill. But that would be a considerable amendment and I hope that, in selling this Bill, emphasis will be placed on the fact that domestic activity does include issues such as trail bikes and jet skis and all those other activities. The other issue I want to clarify relates to the ambit of the interpretation of 'environmental nuisance'. Can the Minister confirm whether or not the reference to an adverse effect on any amenity value of an area caused by noise, smoke, dust, fumes, or odour extends to car exhaust fumes and emission controls?

The Hon. ANNE LEVY: I am informed that it could do so if the environment protection policy subsequently developed did encompass those matters. It certainly would be possible for them to do so—I suppose even cigarette smoke could be included.

The Hon. DIANA LAIDLAW: Cigarette smoke may well be, but Parliament should have a right to—and I have amended on file—to disallow such policies. We will raise that matter later. In relation to 'environmental nuisance', if the EPA develops a policy could it in fact relate to the Pitjantjatjara lands and to the cars that are scattered throughout the lands or around the communities?

Does it also relate to roadside litter? I have had discussions with councils in the northern suburbs, and the litter along the Main North Road in the past year has been quite vile and certainly KESAB, on its clean-up days, has collected a great deal along that outer arterial road. If environmental use relates to roadside litter and a policy is determined by the EPA and then through this Parliament and elsewhere will the policy determine who is responsible for that roadside litter?

The Hon. ANNE LEVY: I understand that control of roadside litter is generally a matter under the Local Government Act and is the responsibility of local councils. A policy could be developed by the EPA. The dumping of car bodies or car remains is already covered by law, matters such as dumping of cars in quarries and so on, and that control will certainly be continued.

The Hon. DIANA LAIDLAW: In relation to clause 3(2), Western Mining raised concerns about the definition being too wide when it made its initial and subsequent representations to the Government on this Bill. The response from the Government was a concession that it may be unreasonably and unnecessarily wide and that the Government would be reconsidering this issue. It has clearly not been reconsidered in terms of any amendment to the Bill. For the record I would like to understand the reason why the Government has maintained this definition and not sought to address the issues raised by Western Mining?

The Hon. ANNE LEVY: The Government has certainly given very close consideration to the concerns raised by Western Mining and it wondered whether a narrower

definition of 'associate' should be provided but decided against this. The reason is related to the use of this definition in clauses 96(6) and 104(4) where the definition is referred to in relation to recovery of expenses by the EPA where it takes action to implement an environment protection order or a clean-up order. The earlier draft Bill provided that any such moneys owed to the EPA would be a first charge against any land owned by the offending person.

The provision for a first charge has been deleted because of the potentially high impact of such a provision of lenders with registered charges in the land and the likelihood that higher risk activities, such as handling waste, would therefore have much greater difficulty obtaining finance. It was felt that was an unreasonable imposition. The EPA charge in this regard will only have priority over a charge registered by someone who is an associate of the owner of the land. Clause 3(2) gives a definition of an 'associate', as the honourable member has pointed out, which covers persons or entities which are linked in one of the ways listed with the person who has been issued with the order.

Charges in the name of other partners in a partnership, a spouse, parent or a child of the person, and corporate bodies of which the person is a director or related in some other relevant way, will not have priority over an EPA charge. An associate does not include a sister or a brother or other family members who are not in a business relationship with the person and could reasonably be seen to be at arm's length from the operations leading to the issuing of the environment protection order. We feel that the provisions of clause 96(6) strike a balance between the public benefit of full recovery of costs associated with an environment protection order being implemented by a public authority and the private interests of individuals or lending institutions which may be adversely affected if a charge in favour of the EPA were to have priority over their previously registered interests in the land.

A submission from the bankers' association made the point that upsetting of the normal priorities in relation to charges on land could have a significant impact on the way in which banks were prepared to lend money in the future. Generally the situations where first charges are put on land for recovery of money owing to public authorities relate to taxes and rates where the amounts involved are not normally large in relation to the value of the land. The expense involved in compliance with an environment protection order could, in some cases, represent a significant fraction of the value of the land involved.

The definition of 'associate' has been developed to fit the needs of this Bill based on similar definitions in the Associations Incorporation Act, section 3; the Land Agents, Brokers and Valuers Act, section 6; the Public Corporations Act, section 3; and other Acts passed by this Parliament.

The Hon. K.T. Griffin: That is quite a different purpose.

The Hon. ANNE LEVY: We certainly recognise that this concept of an 'associate' is a somewhat blunt instrument but, however, in practice it is necessary to cast a wide net regarding associated entities. Introducing exemptions or otherwise narrowing the definition would only encourage legal devices which will enable a person to avoid a registered charge to cover EPA expenses. For those reasons the Government, after full consideration, decided not to change the definition.

The Hon. K.T. GRIFFIN: The definition of 'associate' is a person who is a 'spouse, parent or child of another'. That means that if, under clause 96(6) and clause 104(4), there is a charge for land in favour of a putative spouse, that charge will remain. Can the Minister indicate why in those circumstances there should be more favourable treatment of a putative spouse than a spouse for the purposes of those two clauses?

The Hon. ANNE LEVY: I understand that the Acts Interpretation Act would not necessarily take a spouse to include a putative spouse. Paragraph (g), 'a relationship of a prescribed kind exists between them', could cover that situation. It would be possible to avoid such an anomaly by prescribing putative spouse as a prescribed relationship.

The Hon. K.T. GRIFFIN: I acknowledge that is so, but it still seems unusual that one has to resort to a regulation to exclude that anomaly. Many of these issues will arise as we debate the matter which I and others may not have thought about. If this is to apply to 'spouse, parent or child', I suggest we should include 'putative spouse', and there is a form of words that is normally used. If that is not ready by the time we deal with my amendments, perhaps we might recommit the clause to consider that matter afresh.

The Hon. ANNE LEVY: We would be happy to accept such an amendment. Perhaps the honourable member would like to move it after getting Parliamentary Counsel to draft it.

The Hon. K.T. Griffin: When we get to it I will do that.

The Hon. ANNE LEVY: But this does not negate the value of paragraph (g), because, as the honourable member indicated, it is impossible in advance to think of all possible situations.

The Hon. DIANA LAIDLAW: Again, on the definition of 'associate', I take up representations by Western Mining. Subsection (2)(h) refers to 'a chain of relationships can be traced between them under any one or more of the above paragraphs.' Can the Minister clarify whether two companies will be associates by virtue of the fact that they share a common director?

The Hon. ANNE LEVY: My advice is 'Yes'.

The Hon. K.T. GRIFFIN: In relation to the definition of 'business', '"business" includes a business not carried on for profit or gain and any activity undertaken by government or a public authority'. I can understand the clarity of 'any activity undertaken by Government or a public authority', so that by definition becomes a business. However, I am not sure what the Government has in mind in relation to a business 'not carried on for profit or gain'. My understanding of the common usage of business is that usually some measure of profit or gain is the end goal of business activity. In fact, an activity is not a business unless there is some measure of profit or gain at the end of it. Can the Minister indicate what sort of activities the Government is seeking to include within the definition? Does it include activities such as Meals on Wheels and other charitable functions and services which one would not normally see as coming within the definition of 'business'?

The Hon. ANNE LEVY: I think that the honourable member has answered his own question. It is obvious that he has not been Minister for the Arts. A large number of arts organisations undertake activities which one would want to class as business in the sense of being responsible under this legislation for environmental effects, but the usual request from the Government is that they break even. They do not make profits or, if they do, they are put into reserves against a rainy day. Many charitable, cultural and social organisations carry out activities which are vital parts of our community. It is important, if they have environmental effects, that they

should be controlled under this legislation as are businesses for profit, and that is why they are included in this definition.

The Hon. K.T. GRIFFIN: That may be a definition that is ultimately defined for the Government by the courts. I turn now to the definition of 'owner': '"owner" of land means—(a) if the land is unalienated from the Crown—the Crown', and certain other paragraphs follow.In looking at the consequences of the application of this Bill in respect of the definition of owner of land, did the Government take into consideration the possible consequences of the High Court decision in the Mabo case which recognised certain native title rights which may apply over unalienated Crown land and may apply in relation to other land, particularly where grants in fee simple have been granted since 31 October 1975? If the Government did not take that decision into consideration, does the Minister have any reaction to the way in which that may be applied in respect of this legislation? If the Government did consider it, can the Minister indicate what conclusion the Government reached?

The Hon. ANNE LEVY: The Government has certainly considered this matter but, in the absence of any specific State or Commonwealth legislation which applies definitions in this way, it was felt that it was premature to attempt to do so within this legislation. It may well be that an amendment to this definition is required when appropriate legislation dealing with native title is in place.

The Hon. K.T. GRIFFIN: I appreciate the Minister's response. However (and I am not proposing that I should move any amendment in relation to this), it should be recognised that the High Court decision applies, whether or not rights are now defined by legislation. I would agree that there may be some legislation and because of that we may need to look at the definition of 'owner' at some time in the future. Certainly, even without legislation, there is one group of titleholder which I would suggest would not be encompassed by the owner of land as a result of that High Court decision. I am happy to have raised it and to wait upon the Government's decision in due course. I now come to my amendment. I move:

Page 4, line 6—After 'place' insert ', but does not include a mortgagee in possession unless the mortgagee assumes active management of the place'.

The amendment is necessary because submissions were made to the Government and me by the Australian Finance Conference and the Credit Union Services Corporation (Australia) Ltd, drawing attention to the concerns which both those organisations have about the scope of the liability of mortgagees.

The point has been made that, if a mortgagee assumes possession, the technical connotation does not mean that the mortgagee must necessarily move in and occupy the premises which are the subject of the mortgage and which provide security to the mortgagee. It is a highly technical description for a mortgagee assuming authority without necessarily taking an active role in the operation of the property or any activities which may take place on that property.

So, it is very largely a passive consequence of a mortgagee exercising powers under the mortgage where the mortgagor is in default. If this is not clarified, it could mean that mortgagees might themselves become liable to incur expense in complying with orders which might apply to the land, even though, as the holder of security, their best interests may be merely to offer the property for sale and to allow it to be sold, subject to whatever impediments there might be to the title or priorities registered on the title. I suggest that it is not for the mortgagee to take the responsibility for cleaning up or for the mortgagee to be bound by orders, as long as the passing of the title does not act to discharge any obligation of the owner of the land in respect of the Environment Protection Bill.

My amendment, which I have shown to both the Credit Union Services Corporation and to the Australian Finance Conference, satisfies them in respect of the granting of finance and then exercising their rights under the mortgage in the event of default. It provides that, technically speaking, the mortgagee in possession does not become liable to expend further money on a security unless the mortgagee assumes active management of the place. That draws a distinction between becoming a mortgagee in possession by law and then actively carrying on a business from those premises or collecting rents and undertaking work on the premises. So, there is a distinction to be made between the two. It is in that context therefore that I move my amendment.

The Hon. ANNE LEVY: The Government opposes this amendment. As the honourable member has explained, the issue which leads to his changed definition arises because in some limited circumstances a lender may become an occupier and therefore potentially liable for clean-up costs. But the question of the impact of this Bill on lenders with registered interests in land affected by clean-up orders was certainly raised in debate in another place following a submission which was circulated by the Credit Union Services Corporation, and a reply to the concerns raised was circulated to all members.

The main possible way in which lenders could have been affected by provisions of this Bill allowing charges to be registered on land would be, as I mentioned earlier, if charges in favour of the EPA were given priority over all others. As I explained earlier, the original draft Bill has been changed to avoid this problem.

Certainly, detailed consideration has been given to the financial and legal situation of lenders to properties affected by clean-up orders under this Bill. Lenders, however, are not unfairly affected by this Bill. In most cases, the operation of market forces is what causes the loss of value of land affected by contamination. In fact, in some circumstances, lenders stand to benefit because of the increased powers given to the EPA to undertake clean-ups and recover the money from polluters. A security which may have been written off under current circumstances may regain some or all of its value because of the provisions of this Bill.

I point out that this Bill does not have provisions as broad as those which occur in legislation in Queensland, New South Wales and Victoria affecting lenders with registered interests in polluted lands. The only circumstances when a lender becomes an occupier under this Bill is when they choose to go into possession. At that stage, they will be aware of the clean-up order and they can choose to avoid the clean-up costs if there is no benefit to them. In fact, in many cases, anyway, lenders avoid the need to become an occupier by making an agreement with the owner that the owner will sell the property, rather than the mortgagee in possession, because commercial results from the sale are often better.

There is a further protection for lenders in section 419 of the Corporations Law. This provides that a lender appointing a receiver-manager is not considered an occupier by declaring the receiver-manager the agent of the defaulter, not the lender.

Similar provisions exist under general property law in South Australia. I stress that the Bill does not create or deal

with retrospective liability for contaminated land. That will be done in separate amending legislation following consideration of responses to the discussion paper on financial liability for contaminated site remediation that came from the Australian and New Zealand Environmental Conservation Council (the ministerial council) meeting.

The Hon. Diana Laidlaw: In the Bill in another place you were retrospectively going to gain costs from people who polluted in the past—

The Hon. ANNE LEVY: No decision has been made on that. A discussion paper on the financial liability for contaminated site remediation is being discussed nationally. This matter will be considered nationally but no decisions have been made about retrospectivity. Certainly, it does not occur in this legislation. I can understand that financial institutions are concerned about the impact of legislation providing for the clean-up of pollution, but many of the concerns exist because of the impact of market forces based on the knowledge of pollution. Because there is no retrospectivity in this Bill it does not, for example, affect residential property owners who have houses on land polluted by previous owners. Lenders to such people, including credit unions, will have no new obligations under this Bill.

The Government is opposed to singling out lenders for a special exemption under the Bill. Exempting lenders will very likely shift some of the financial burden for cleaning up pollution to the general public through taxes and charges or to the EPA, to the extent of its financial capacity, and for those reasons the Government opposes the Hon. Mr Griffin's amendment. There are many ways in which the mortgagee need not be in the position of a mortgagee in possession. Because there is no retrospectivity at all in this Bill, it is unnecessary to provide such a definition.

The Hon. K.T. GRIFFIN: Retrospectivity has nothing to do with it, certainly not in the consideration of the principle. My amendment does not single out mortgagees for special treatment, nor are others refused that so-called special treatment. The Minister said earlier that we have to endeavour to ensure the integrity of the financing process to ensure that those who do lend have some measure of security.

The Minister says there are ways that mortgagees can exercise their rights without becoming mortgagees in possession. That may be so, but she is suggesting that by the operation of this legislation lenders will need to have regard to the fact that they will have a limitation on their rights or, if they do exercise their rights, they will attract a particular burden under the operation of this Act. The fact of the matter is that just being a mortgagee in possession does not mean that the mortgagee actually goes in and carries on the activity on the particular security. That may happen, but it does not have to happen.

There are legal connotations in declaring oneself a mortgagee in possession which does give a significantly greater measure of control and ability to protect security than merely issuing a notice of default. Then you go to the next step, and that is recognised in my amendment: if the mortgagee does become actively involved in the management of the place, there is a liability which may be attracted by virtue of that management activity.

The definition of 'occupier' includes:

> . . . a licensee and the holder of any right at law to use or carry on operations at the place.

With respect to a person or body that has taken the land as security, the right to go into possession as a mortgagee in possession is certainly caught by that definition. However, by broadening it to such an extent, it does compromise the security. Whilst the Minister may be right that spending money on the property may result in a higher value, there is certainly no guarantee that that is the case.

One has only to look at the cost of the State Bank building ($208 million) and it is only worth $65 million, yet the bank, by spending money on the building even to repair the upper floors, has not added markedly to the value. True, that is a digression.

The Hon. Anne Levy interjecting:

The Hon. K.T. GRIFFIN: However, the fact of life is that if the mortgagee in possession who does not exercise active management is not excluded from the definition of 'occupier' it may well make financiers more cautious about lending funds because of possible future liabilities over which they have no control and which are not within their responsibility. Just by virtue of the fact that they have taken security and exercised their rights under the mortgage without becoming actively involved in the management of the property, they then assume a liability to spend more money without necessarily being assured that they are going to get all or at least some of that money back.

It is my strong view that this amendment to the definition recognises something that is reasonable and provides safeguards against mortgagees exercising their rights but does not compromise the integrity of the Bill or the opportunity for one who spends the money ultimately to recover that expenditure on complying with orders from subsequent owners. I strongly believe that the amendment ought to be carried. It is a necessary amendment and, if it is not carried on the voices, it is an issue on which I will seek to divide.

The Hon. M.J. ELLIOTT: I listened carefully to what the Minister said. Her reply seemed to be more about why she felt the amendment was unnecessary rather than what she believed was wrong with it. The Minister has failed at this stage to explain to the Committee why she believes a mortgagee should carry the liability, and I would like her to do so.

The one argument she seemed to put was that, if they did not, then the Government would. The Minister needs to explain precisely why she believes the mortgagee should be accepting some level of liability in these matters.

The Hon. ANNE LEVY: The whole purpose of this Bill is to make the polluter responsible for cleaning up the mess.

The Hon. K.T. Griffin: And that remains, even with my amendment.

The Hon. ANNE LEVY: Yes, that is the aim, that the polluter should clean up the mess. If the polluter is unknown, which may occur, then the occupier is responsible for cleaning up the mess. What the Hon. Mr Griffin is proposing is that one category of occupier would not be responsible for cleaning up a mess when all other categories of occupiers would have the responsibility for cleaning up the mess. We do not see why lenders, who evaluate risks before lending money and who charge interest proportionate to the risks that they are taking, should be excluded from the provisions of all other categories of occupiers.

The Hon. K.T. GRIFFIN: They are caught if they actively manage the property.

The Hon. Anne Levy: If they do nothing you will have orphan sites.

The Hon. K.T. GRIFFIN: That is not so. They are mortgagees: they are lending money on the security of property. It may not have been polluted at the time they lent

the money and subsequently someone pollutes it. They may not know. The Minister is undermining the whole concept of, first, indefeasibility of title but, more particularly, valid security held by a mortgagee. If the mortgagee before the loan is made searches the title and there is nothing registered on it, he does all the necessary checks, takes a mortgage and five years down the track there is some form of pollution, while at the same time perhaps the owner has gone broke; at the same time the mortgagee exercises his, her or its power and says 'There is default under the mortgage; we exercise our right. We become mortgagee in possession but only for the purposes of being able to sell it', then they do nothing more.

They do not go in, they do not manage it or do anything else. They become technically mortgagee in possession. Why should they then be liable to the cleanup costs and cleanup orders? They have a security. They will sell the security and will be subject to the impediment on the title.

The Hon. M.J. ELLIOTT: The Minister commented earlier that it was not retrospective. Is she implying that any existing mortgage arrangement would not be affected by the Bill as it now stands? What precisely did she mean by that?

The Hon. ANNE LEVY: No, by no retrospectivity I mean that the cleanup powers and ability of the EPA to make orders do not relate to past pollution history, except, of course, to the extent that powers existing under the Water Resources Act, and so on, which previously existed under other legislation are carried over. They certainly carry over. While I appreciate the point the Hon. Mr Griffin is trying to make, I still feel that it is making a special case of a particular type of occupier and could lead to rorting. If someone takes out a mortgage, carries out a highly polluting business and does no cleanup, salts away the profits in Switzerland, Liechtenstein or Majorca and then walks out, the end result will be that the taxpayer is required to pick up all the clean up costs.

The mortgagee in lending money is undertaking the normal risks of any mortgagee. One cannot assume that lending money is a certainty: obviously, it is not. There are always bad debts. There is risk involved in lending money.

The Hon. K.T. Griffin: You are providing protection for mortgagees anyway, if they are registered. What you are now saying is contrary to the provisions of the Bill you explained earlier.

The Hon. ANNE LEVY: If what I have said is contrary to the Bill, it seems to me that the Hon. Mr Griffin's amendment is totally unnecessary.

The Hon. M.J. ELLIOTT: I do not have any difficulties with a requirement of an operator for cleanup, nor do I have any difficulties with a person who henceforth takes over an operation, and I would almost draw a distinction between existing mortgages and new mortgages in that perhaps in the future, before lending money, one would choose to look a little more carefully at the operation than has been necessary under existing law to date. What I am suggesting, and I am not sure whether the Minister or the Opposition may pick it up, is that we can draw a distinction between existing mortgages and any new mortgages drawn up after this time in that, I suppose, we would—

The Hon. K.T. Griffin: You say 'may not be in operation at the time you grant the mortgage'. There may not be any operation carried on at the time a lender decides to lend money.

The Hon. M.J. ELLIOTT: You are talking about a new operation commencing: I am talking about existing operations. If a new mortgage is taken out after that date or if a new operation starts up, that is one thing, but to have an already existing mortgage where there has been no previous liability, but we have now created one, creates some difficulties in my mind, at least. I will support the amendment to keep the issue alive, but I think that this may need to be recommitted for further consideration when we reach the end of the Committee stage.

Amendment carried.

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

Page 4, lines 24 to 27—Leave out the definition of 'pollutant' and insert:

'pollutant' means—

(a) any solid, liquid or gas (or combination thereof) including waste, smoke, dust, fumes and odour; and
(b) noise; and
(c) heat; and
(d) anything declared by regulation to be a pollutant.

The amendment alters the current definition of 'pollutant'. I have problems with this definition on two grounds. First, what it says, at least in a scientific sense, is incorrect. It defines pollutant as any solid, liquid or gas (or combination thereof) that may cause any environmental harm, and includes waste, noise, smoke, dust, fumes, odour and heat. Neither noise nor heat is solid, liquid or gas. I guess persons with legal training are quite happy to define them as one of those, but the fact is they are not, and on that ground alone I do not like the definition as it stands.

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

Amendment carried.

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

Page 5, after line 18—Insert new definition as follows:

'spouse' includes putative spouse (whether or not a declaration of the relationship has been made under the Family Relationships Act 1975).

This follows the debate we had earlier about the definition of 'spouse' and it picks up what the Minister indicated she would be prepared to accept, namely, to ensure, where one is talking about an associate and refers to a spouse, that that also includes a putative spouse, whether or not a declaration of the relationship has been made under the Family Relationships Act, and that is a definition that is used in a variety of legislation. I think that satisfies my concern.

The Hon. ANNE LEVY: We are happy with it, Mr Chairman.

Amendment carried; clause as amended passed.

Clause 4 passed.

Clause 5—'Environmental harm.'

The Hon. ANNE LEVY: I move:

Page 6, lines 27 to 33 and Page 7, lines 1 to 10—Leave out paragraphs (a), (b) and (c) and (d) and insert:

(a) environmental harm is to be treated as material environmental harm if—
  (i) it consists of an environmental nuisance of a high impact or on a wide scale; or
  (ii) it involves actual or potential harm to the health or safety of human beings that is not trivial, or other actual or potential environmental harm (not being merely an environmental nuisance) that is not trivial; or
  (iii) it results in actual or potential loss or property damage of an amount, or amounts in aggregate, exceeding $5 000; or
(b) environmental harm is to be treated as serious environmental harm if—
  (i) it involves actual or potential harm to the health or safety of human beings that is of a high impact or on a wide scale, or other actual or potential environment-

al harm (not being merely an environmental nuisance) that is of a high impact or on a wide scale; or

(ii) it results in actual or potential loss or property damage of an amount, or amounts in aggregate, exceeding $50 000.

A number of submissions asked for clarification of clause 5 as it stands. We foreshadowed in another place that this clause would be revised to make it more easily understood without changing the substance of the distinction between 'material' and 'serious' environmental harm. The revised layout, which is part of the amendment, also makes it plain that loss or property damage is only one alternative constituting harm. The purpose of differentiating between material and serious environmental harm relates specifically to the general offences which occur under Part IX of the Bill, particularly clauses 80 and 81. Instead of having, as current Acts have, one offence of polluting water or polluting the sea with a maximum penalty of $1 million, this Bill is providing extra guidance for the courts in establishing the level of offence and appropriate penalty. In this Bill the maximum fines for the general offences range from $30 000 for intentionally causing an environmental nuisance, to $250 000 for intentionally causing material environmental harm, and $1 million for intentionally causing serious environmental harm.

The dividing lines between the various levels of environmental harm necessarily depend in part on imprecise tests. One alternative measure is based on the monetary costs of clean-up or property damage. But of course not all environmental harm has a monetary cost or one that can be calculated with precision. This has meant that, to give guidance to the courts, words of degree such as environmental harm of a high impact or a wide scale, are used to provide an alternative to the monetary tests. I emphasise that the tests are alternatives. The courts will make a judgment as to whether a particular offence falls into a particular category, in the same way as the courts decide whether an assault is just a common assault, an assault occasioning actual bodily harm or an assault causing or creating a risk of grievous bodily harm. I trust that the rewording of this clause will satisfy the concerns which, as I say, were raised in another place.

The Hon. DIANA LAIDLAW: I support the amendment and thank the Government for moving it. It was a matter that was canvassed in the other place at length because of the confusion. It is a matter on which I have received many representations in the past few weeks. As the Minister said, it is confusing in its current form, and it also overlooks the fact that environmental harm cannot just be looked at in terms of monetary loss or property loss. This is a vast improvement. I would also like to indicate that in terms of the reference 'potential harm', I have received a number of representations on this matter and, as I have explained to those who have asked me to move amendments to delete such references, it is my belief that there is an important emphasis in this clause on prevention, rather than merely dealing with a crisis situation, and it is for that reason that I will not be moving to delete the references to 'potential harm'.

Amendment carried; clause as amended passed.

Clause 6—'Act binds Crown.'

The Hon. DIANA LAIDLAW: I am familiar with references in many Bills to acts binding the Crown as in clause 6(1) but not so familiar with the references in 6(2) that no criminal liability attaches to the Crown itself but would in terms of agents, instrumentalities, officers and employees. That means that the Minister would not be liable but a director of a department could be. How far does this extend or is it to a contractor? I am not sure what the ambit of all this is. Could the Minister explain that to me?

The Hon. ANNE LEVY: I am told it means that the Crown cannot prosecute itself but, of course, a statutory body like ETSA could be prosecuted.

The Hon. DIANA LAIDLAW: A statutory authority could not be prosecuted. For instance, if the Department of Transport got itself into a mess somewhere, either in a workshop or on the roadway, as a department it could be prosecuted, or the head of the department, or both?

The Hon. ANNE LEVY: As I understand it they could be. There could be a question of indemnity and so on but that is a separate issue but they could be prosecuted.

The Hon. DIANA LAIDLAW: Would an employee in the Department of Transport who is a permanent employee or a daily paid employee be liable or is it only senior employees who have authorised the work or are meant to be supervising the work in terms of any pollution?

The Hon. ANNE LEVY: It would depend entirely on the situation. They could be prosecuted if they were liable. Whether they were liable or not or whether it was the superior or the CEO of the department would depend entirely on the particular circumstances. What this clause is saying is that these people are not able to claim immunity from prosecution.

The Hon. K.T. GRIFFIN: I coincidentally had some doubts about clause 6(2) because it appears that it is taking the liability of agents, instrumentalities, officers and employees much further than the amendments we passed in 1992 to the Acts Interpretation Act. I would like to explore it a little because I would like to get some appreciation of the scope of the Government's legislative intent. Section 20(3) of the Acts Interpretation Act provides:

> Where an Act or a provision of an Act (whether passed before or after 20 June 1990) binds the Crown but not so as to impose any criminal liability on the Crown, the Crown's immunity from criminal liability extends (unless the contrary intention is expressed) to an agent of the Crown in respect of an Act within the scope of the agents obligations.

Section 20(5) provides:

> For the purposes of this section—
>
> (b) a reference to an agent of the Crown extends to an instrumentality, officer or employee of the Crown or a contractor or other person who carries out functions on behalf of the Crown.
>
> (c) an agent acts within the scope of the agents obligations if the act is reasonably required for carrying out of obligations or functions imposed on, or assigned to the agent.

I have not thought deeply about it but it seems to me that this could well create significant difficulties for Government where employees, agents or officers are acting within what they believe is the scope of their authority and happen to contravene the provisions of this Act. Not only do they then have a civil liability but they may well have a criminal liability. The same with bodies such as ETSA, I suppose. The body itself will be subject to prosecution and subsequently, under later provisions of this Bill, it may be that the members of the board of ETSA will also be liable because the body corporate has a liability.

That has some very extensive ramifications for Government and members of boards of statutory instrumentalities, particularly where they may be subject to direction by the Minister. If the Minister gives the board a direction to do something and in doing that there is a breach of the provisions of this Act then the Minister escapes liability but the members of the board do not. I wonder whether the Government has considered all of those ramifications in the context of clause 6(2)?

The Hon. ANNE LEVY: I can assure you the Government has given a lot of consideration to this matter. The principle on which the clause is based is that employees in the public sector should be treated in exactly the same way as employees in the private sector: that there should be no difference in their rights, obligations and liability for prosecution if there is any breach of duty. The board of ETSA will be in exactly the same position as the board of Brighton Cement. They are both boards and there is no reason why members of one, because they are in the public sector, should be treated differently in terms of their environmental responsibilities from those in the private sector.

The honourable member raised the question that members of boards of statutory authorities are subject to ministerial direction. They are not bound to follow an illegal direction. There can be no question of their being liable because they have felt it their duty to follow a direction which was an illegal direction. I think that aspect is covered. The clause is simply put in on the basis that public employees should have exactly the same responsibilities, duties and liabilities as private employees but one has to avoid the nonsense of the Crown prosecuting the Crown.

The Hon. DIANA LAIDLAW: I thank the Minister for her explanation. I had not noted such a provision in other legislation but there may be ramifications as the Hon. Mr Griffin indicated. But as a principle I support it because we need to require, not only in environmental areas but in all areas, the same sense of responsibility whether people are working in the public or private sector. That applies whether it is occupational health and safety, environmental law or the rest. So it is an interesting matter and I am pleased to see it in the Bill.

Clause passed.

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

Clause 7—'Interaction with other Acts.'

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

Page 8, lines 3 to 18—Leave out subclauses (3) and (4).

Subclause (3) relates to three Acts which, with the subclause remaining in place, allows exemption, which I find intolerable. I make the point, particularly in relation to the 1958 and 1964 Pulp and Paper Mills Acts that things have changed a tad since then and we cannot expect agreements to be cast in stone forever. We are talking not about a piece of legislation passed in the last two or three years and suddenly changing the rules, but about legislation which in one case goes back 35 years. It is not unreasonable to expect that this legislation should not be subject to those old Acts.

I have a particular concern about subclause (4)(c). As I see it, waste may be produced and stored, subject to the Mining Act 1971, and cause no difficulties at the time, but some time after the cessation of mining activities a problem may eventuate off-site. For example, a tailings dam properly maintained may not be of any immediate threat to the environment, but an abandoned tailings dam, a decade or two later, may be subject to erosion and the material stored within it may be carried off the site into other locations and create real difficulties. I do not believe that sort of problem is adequately addressed by the Mining Act, and the EPA legislation will exempt those activities from the workings of this Bill. That is nonsense. I do not see why there should be special exemptions for miners which are not available for all other industries. I can understand that we do not want duplication, but the care of wastes should not be the responsibility of the Department of Mines; that responsibility should properly be assigned to the Environment Protection Agency. For those reasons, I think these exemptions are indefensible.

The Hon. ANNE LEVY: The Government opposes the amendment. Some people have wrongly taken clause 7(3) as meaning that the Kimberly-Clark and Roxby Downs activities are exempted entirely from this Bill. That is not correct. The Bill provides that this legislation does not override specific environmental dispensations and provisions of the Pulp and Paper Mill Indenture Acts and the Roxby Downs Indenture Act. Section 5(3) of the Marine Environment Protection Act makes a similar provision for the Pulp and Paper Mills Acts. These Acts provide for the Kimberly-Clark paper mills at Millicent to have rights to discharge pollutants into the drains and hence into Lake Bonney. Significant investment has been made over recent years which has resulted in a substantial improvement of the water quality released from the paper mills. In all other respects, except the release of pollutants into Lake Bonney, Kimberly-Clark will be regulated by this Bill. As currently occurs under the Clean Air Act, Kimberly-Clark will require an environmental authorisation under this Bill.

Similarly, it is proposed to make this Bill subject to the Roxby Downs (Indenture Ratification) Act to preserve rights and specific environmental provisions established under that Act relating to uranium mining and the disposal of wastes on the special mining lease granted under that Act. The Radiation Protection and Control Act governs the licensing, monitoring and standards for radiation protection associated with the Roxby Downs site and covers mining wastes at the site through the licence and associated codes of practice. The activity at Roxby Downs is currently licensed under the Clean Air Act and it will be licensed under this Bill in addition to its existing licence under the Radiation Protection and Control Act. Clause 7(3) simply preserves existing provisions and legal rights under indenture Acts ratified by this Parliament.

The Government also opposes the deletion of clause 7(4). Regulation of petroleum exploration activity will continue to be the responsibility of the Department of Mines and Energy under the Petroleum Act and the Petroleum (Submerged Lands) Act. A fact sheet has been distributed with the information package containing the Environment Protection Bill explaining the relationship of this Bill with mining and petroleum activities. Current regulation of petroleum exploration activity includes environmental assessments, and exploration licences are governed by conditions which include environmental factors. Codes of environmental practice are also used in relation to petroleum exploration activities. Offshore exploration also requires the preparation of emergency plans.

Currently, the Waste Management Act defines 'wastes' to exclude 'mining and associated milling wastes and slags' and also excludes 'radioactive wastes', because they are dealt with elsewhere. This Bill carries over the mining waste exemption but in a much more limited form. In fact, the effect is to extend the coverage of mining wastes and petroleum production wastes, particularly so that such wastes moved off-site for dumping or reprocessing elsewhere will be regulated under this Bill. Without this improvement, environmental management of such wastes may not be covered under mining, petroleum or environmental protection law.

Clause 7(4)(b) provides generally that mining activities and petroleum production will be subject to this Bill, except

that wastes produced in the course of such activities (which are not licensed under this Bill pursuant to schedule 1) under the Mining Act, the Petroleum Act or the Roxby Downs (Indenture Ratification) Act will not be subject to this legislation when the wastes are produced and disposed of to land and contained within the area of the lease or licence.

The practice of having a miscellaneous purposes licence area adjacent to a mining lease under the Mining Act is recognised by clause 7(4)(c). Wastes produced following mining activity under a mining lease are exempted where they are disposed of to land and contained within the area of a miscellaneous purpose licence adjacent to the area of the mining lease. Waste produced from offshore petroleum production activities under the Petroleum (Submerged Lands) Act or the Petroleum Act will not be covered by this exemption, since they cannot be disposed of to land and contained within the area of the relevant lease. The exclusions contained within clause 7(4)(v) and 7(4)(w) of schedule 1 of this Bill are consistent with the provisions of clause 7(4) to ensure that licensing is not required for production of wastes exempted from this Bill.

The Hon. DIANA LAIDLAW: The Liberal Party will not support either of the amendments moved by the Hon. Mr Elliott for much the same reason as the Minister has outlined well in her explanation. We believe with respect to subclause (3) that this Parliament has given undertakings to Kimberly-Clark and Western Mining in respect of Roxby Downs operations. If they are undertakings that we believe we should uphold—

An honourable member interjecting:

The Hon. DIANA LAIDLAW: It may well have been 35 years ago—then we should be looking at the agreement Act itself rather than seeking to override it by this measure. I also acknowledge that many of the activities undertaken by Kimberly-Clark in respect of its pulp and paper mills in the South-East will be subject to various parts of this Bill, and that is as it should be.

I have explained to Kimberly-Clark that we in this State have high expectations that the developments they have undertaken in recent years to improve their performance in terms of discharges and wastes will continue in the future. If they do not, we in this place always have the capacity to reassess the provisions that we are now considering. We can also assess the original agreement Acts, and that would probably be a more honest approach than the manner in which the Hon. Mr Elliott is seeking to address his concerns, that is, by failing to provide the exemptions or the conditions under which this Act will apply to those who are nominated in the Bill.

With respect to subclause (4), the Liberal Party again will not support those measures. In fact, we have received strong representations to toughen these measures further in subparagraphs (b) and (c) of subclause (4) by excluding the words 'not being a prescribed activity of environmental significance'. I understand that those words were not in the original draft legislation and have been included in more recent times. The Liberal Party will not move to exclude those words, although I indicate that we have received strong representations to do so.

There is some concern by companies, however, that with these words left in the Bill they will be subject not only to the Environment Protection Act but also to the Mining Act, and there is concern as to why there is such a need for duplication. I believe that the Minister did explain that in her reply to the Hon. Mr Elliott, and we are satisfied in that regard.

The Hon. M.J. ELLIOTT: The Minister did not answer why; she just explained what was happening. It is worth noting that the Victorian Environment Protection Act offers no exemptions.

The Hon. Diana Laidlaw: That is not right. I checked that yesterday, and that is not right.

The Hon. M.J. ELLIOTT: What exemption is granted?

The Hon. Diana Laidlaw: I was given that advice also. We have spoken with the Minister and that is not right.

The Hon. M.J. ELLIOTT: Have you also been advised that the Tasmanians are phasing out their ministerial exemptions?

The Hon. Diana Laidlaw: Yes, but that is more on clause 38.

The Hon. M.J. ELLIOTT: But the point is that that is exemptions of all sorts, not just specific exemptions. Nevertheless, if we go to the pulp and paper agreement Act, the Minister said that this Act will apply to everything except for releases into Lake Bonney. If you ask anybody what is the major concern about the mill in the South-East, they will say, 'The releases into Lake Bonney.' We are talking about the largest freshwater body in South Australia, and the Minister is saying that it is the only thing that is exempted. It is the most important part of the operation, and it is not an insignificant matter at all. The agreement is 35 years old, and the Minister says we must stick by it absolutely. That is a load of codswallop.

On the question of mines, nobody has yet explained why mining companies should have rules any different from anybody else's in relation to waste. Why should they? Some mining operations are very much part of an industrial operation. There is one proposal in Port Pirie where a mining lease has been granted to mine a waste site in a very susceptible area. It is in the intertidal zone, where highly toxic radioactive wastes have been for many years. There has been a proposal to mine those wastes and process them on site. All those activities, including disposal back onto that site again would be exempted, because is it happening within a mining lease, yet here they are working with highly toxic and radioactive substances and being told, 'You can work under a different Act from other industries.'

No good reason has been given for this. The only reason is that the Government has rolled over, as has the Opposition, and had its belly tickled, because a bit of pressure has been put on it from a few companies. Let us be honest about it: there has been great pressure. Both the Government and the Opposition know that is the case, and that is why these exemptions are here. There is no other reason. There is no philosophical justification and no practical justification in any other sense.

The Hon. ANNE LEVY: I would like to stress again that, in relation to subclause (4), the interrelationship between this Bill and the Mining and Petroleum Acts has been carefully arranged so that there is no duplication of regulation. Provided they are disposed of on land adjacent to the mining site, the wastes associated with mining are covered by the Mining and Petroleum Acts, and it is not necessary to duplicate regulation by dealing with that under this Act as well. Despite that statement, I can assure members that activities which have significant potential to cause harm to the environment as a result of pollution and waste are regulated by this Bill.

The Hon. M.J. ELLIOTT: Can the Minister explain how wastes being produced and stored on-site, subject to the Mining Act, are being covered by this Bill? How does this

Bill cover issues of later leachates or later run-off, perhaps after the operation has ceased?

The Hon. ANNE LEVY: I thought I had explained that any wastes produced and disposed of on land next to the site or adjacent to the mine are not covered by this legislation because they are covered by the Mining Act and the Petroleum Act. They are regulated under those Acts, not this legislation, and it is unnecessary to have duplication.

The Hon. M.J. ELLIOTT: One more time! I agree it is unnecessary to have duplication. However, the point is that it should not be the Mining Act which looks after wastes related to mining activities—it should be EPA. If you develop a set of expertise in a particular department—the EPA—that expertise should be applied to looking after the waste produced by mining operations. Why should we have duplicated expertise in two different departments? It should all be operating under the auspices of one department or authority. I agree that there should not be duplication. We will have duplication of a different kind: not duplication of administration but duplication of administrations, because there will be two sets of so-called experts operating separately and with different rules, and that is unacceptable.

The Hon. DIANA LAIDLAW: It is worth reinforcing the point I raised earlier in subclauses (4)(b) and (c) where there are references to waste being produced in the course of an activity that is not a prescribed activity of environmental significance. Schedule 1 lists a whole range of activities which are prescribed and which will have a bearing on mining activities. This legislation will apply to a whole range of activities on site, for example, chemical storage, warehousing, mineral processing and waste dumps. Also, I am told it could apply to tailings dams and the like. Therefore, it is wrong, as the Hon. Mr Elliott has suggested, to suggest that this legislation will not apply in terms of a whole range of activities on site, whether it be at Roxby Downs or any other mining venture.

Amendment negatived; clause passed.

Clauses 8 and 9 passed.

Clause 10—'Objects of the Act.'

The Hon. DIANA LAIDLAW: My question relates to subclause (1)(b)(vi), which refers to the allocation of the costs of environmental protection and restoration. Reference is made to polluters bearing 'an appropriate share of the costs'. Will the Minister explain this reference? Clause 4 is headed 'Responsibility for pollution', and there it is 'the occupier or person in charge of a place or vehicle at or from which a pollutant escapes or is discharged, emitted or deposited' who will be responsible in regard to that pollution. Will the Minister clarify the position in terms of responsibility for pollution, because there appears to be some contradiction?

The Hon. ANNE LEVY: Subparagraph (vi) to which the honourable member refers really sets out the principle that it is the polluter who pays, but it also recognises that to some extent we are all polluters in various activities and that in some cases, because we are all polluters, it is reasonable for the State or the taxpayer to pick up some of the cost associated with remedying that pollution.

In clause 4 it is clear that the occupier of the land is responsible for the pollution: it is that person, company or the occupier who is clearly responsible, and that person must carry an appropriate share of the cost, or in many cases all of the cost, of cleaning up that pollution, but there are some activities in which we are all polluters.

The Hon. Diana Laidlaw: For example?

The Hon. ANNE LEVY: As we drive our vehicles down the street we are polluting it, as everyone's nose will tell them. Removing lead from petrol obviously reduces pollution but only partly reduces it. It does little about many of the other pollutants. Another example is the production of household wastes. Even if recycling is to be undertaken and household waste is sorted into various categories, there will be still some part of household waste which everyone produces and which must be disposed of, and it is reasonable that that be done through a tax or a charge such as rates, rather than collecting door to door the individual costs that result from that particular household.

Clause passed.

Clauses 11 and 12 passed.

Clause 13—'Functions of authority.'

The Hon. DIANA LAIDLAW: I move:

Page 13, line 25—Before 'implement' insert ', where appropriate,'.

The Liberal Party acknowledges that in May 1992 South Australia was one of a number of Federal, State and Territory Governments that were signatories to an intergovernmental agreement on the environment, and that in part proposed that there be complementary Commonwealth and State legislation to establish national environmental protection measures.

This proposed complementary legislation is in draft form only today. The Government may have seen a copy but certainly the Opposition has not, and I know that Governments around the country are debating the measure at the moment. Certainly, there is not agreement on the draft legislation at this time, let alone on the whole procedure of complementary legislation.

I believe it is premature; it is inappropriate and irresponsible to be moving at this time for a *carte blanche* or automatic implementation of national environment protection measures, and it is not essential that at this time we move the provisions in this Bill. Therefore, I argue on behalf of the Liberal Party that we should be a little cautious in this field and should have the qualification that, where appropriate, we would implement such measures. As I say, it is only draft legislation at this time. It has not been agreed to by all Ministers. We have not even seen such legislation go through the Federal Parliament and, as all members know, the Federal Government these days is not having much luck in getting through what it wants in the form it may want.

It is presumptuous and foolhardy for us in this place to be binding ourselves as members of the Parliament and binding this State, industry and others to legislation, standards and measures which we have not yet seen and which most of us have not debated. There will be a time and place for that when the process of complementary legislation is approved and Bills may be before this place. It is premature for us to be making such decisions. Therefore, we move that there be this qualification of 'where appropriate', in terms of the functions of the authority, in implementing these measures.

I know that the Labor Party as a whole, the Australian Democrats and the Liberal Party deplored the national standards and measures that were imposed on this State in respect of nursing homes a few years back. At that time we had higher standards and saw our standards lowered quite considerably. Most of us have also deplored the road cost charges issue that has been a recommendation from the National Road Transport Commission, and I have welcomed the Government's view on road cost charges and the way it resisted those Federal measures. The Mutual Recognition Bill

is another instance where the Liberal Party has considerable reservations, helped to defeat the measure at first and now has insisted upon various precautionary measures being incorporated in that Bill.

Again I would argue for precautionary measures at this time in this Bill, although my own feeling is that this matter of national environment protection measures should not even be debated at this time. I am not sure what the motive of the Government or those advising the Government is, other than some personal agenda. It is not appropriate; it is premature and irresponsible, in my view, to be tying this Parliament and the State into accepting national standards that we have not even seen or debated.

I believe that there are processes of consultation and negotiation that we should be insisting upon at the Federal, State and Territory level. Those processes are in place. Consultation is proceeding now and we should await the outcome. However, my Party has decided that we would not throw out this reference to national environment protection measures either in this provision or in later provisions, therefore we have sought to suggest that, where appropriate, taking into account South Australia's interests as we rebuild this State, it is necessary to have the amendment that I have moved.

The Hon. ANNE LEVY: The Government opposes this amendment very strongly. Clause 13 and the further clause 29—which I see the Opposition will oppose—are in the Bill because they are fundamental to show South Australia's willingness to meet our obligations under the Intergovernmental Agreement on the Environment, so that national environment protection measures can be implemented. The honourable member refers (as was done in another place) to this meaning that South Australia may have lower standards than we would otherwise have. That is a misreading of the Bill.

It is quite clear from schedule 4 of the Intergovernmental Agreement on the Environment that States can maintain or introduce more stringent environmental standards over and above those provided for in national environment protection measures. There is nothing ever to prevent this State from having stricter environmental protection measures than apply in the national environment protection measures. Clause 29 (which the Opposition will oppose) specifically states that there is nothing to stop us being more stringent if we wish to be.

As I am sure the honourable member knows, the national environment protection measures are currently being worked on, are expected to be agreed at the Heads of Government Meeting at the end of the year and, consequently, to come before this Parliament as legislation in the early part of next year. But we need to put into this Bill, which is an overarching Environmental Protection Bill, that we are prepared to undertake our national obligations, and this clause and clause 29 together deal with this. It is regrettable that the Opposition is opposing altogether clause 29, which is obviously linked to clause 13, clause 29 being the substantive clause that is giving effect to our obligations within our own environment protection scheme.

I feel that this is signalling that the Opposition has not yet made a commitment that South Australians will have the benefit of the common environmental standards that are being agreed upon nationally—and, I may say, they are being agreed upon by all Governments in this country. Both Labor and Liberal Governments have agreed on this procedure. None has withdrawn: none has expressed the sort of small minded reservations that the Opposition is now peddling.

The legislation will be brought to this Parliament; that has been agreed. I think that will be a separate Bill and in our overall environment protection measures we need to have a recognition of our national obligations and our national commitment in this regard. That is what clauses 13 and 29 are trying to do. I would urge the Committee to oppose this amendment and also to oppose the proposed deletion of clause 29.

The Hon. M.J. ELLIOTT: I would draw a very clear distinction between what we are seeing later on in clause 29, which is what this amendment is directed towards, and what happened under the Mutual Recognition Bill. What this does is it allows the setting of a national standard but it is not a lowest common denominator standard as we saw with the Mutual Recognition Bill. The Mutual Recognition Bill became the national standard. We would have to effectively comply with it, but under this legislation whatever laws we have in place, if we had a more stringent standard, then that would not be undermined by the lower national standard, but it does put a national floor in. It works in a way directly opposite to the way the Mutual Recognition Bill worked. I had great difficulty with the Mutual Recognition Bill and I voted against it because it was a bad piece of legislation. This is bad legislation in many ways, but in relation to this particular clause I think the problems are—

The Hon. Anne Levy interjecting:

The Hon. M.J. ELLIOTT: It is not a problem for me, and the problems that were alluded to by the Hon. Diana Laidlaw are different, I believe, in the other examples given. I will not be supporting the amendment.

The Hon. DIANA LAIDLAW: There is something rather sick about this Bill and the way in which it has been presented and argued by the Government. There are measures later in this Bill where both the Opposition and the Democrats are seeking to make the Government accountable for standards that are insisted upon in this Bill, by providing for remedies and appeals and the like, and the Government resists such things. The Government is championing itself as being interested in national environmental protection measures in industries, and yet here the Government is asking the Parliament to accept them in good faith, sight unseen. I find that quite an extraordinary approach for a Government to impose upon a State Parliament and its role of review and working. The Parliament has been established and we are all paid to represent this State's interests. There is, as the Minister said, an opportunity to debate this at a later stage when the complementary legislation is introduced. That is the time and place. I regret very much that I do not have the numbers on this matter, but I respect that that is so and will not be calling for a division.

Amendment negatived; clause passed.

Clause 14 passed.

Clause 15—'Terms and conditions of office.'

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

Page 14, line 26—Leave out 'five' and insert 'three'.

This clause deals with the terms and conditions of office of members of the authority, and subclause (1) provides that the person who is appointed to chair the authority is to be appointed for a term not exceeding five years, specified in the instrument of appointment. Subclause (2) provides that an appointed member of the authority is to be appointed for a term not exceeding two years, as specified in the instrument.

Both are eligible for reappointment. My amendment is to reduce the maximum period of appointment of a person to chair the authority from five years back to three years. It is important to recognise that this body is not a tribunal, where one would ordinarily expect longer terms of office for members of the tribunal to give it a measure of independence as a *quasi* judicial body. In most respects this authority is subject to the control and direction of a Minister, and in my view it is inappropriate for the person who chairs that authority to have such a long term in office. I looked at some of the Bills that have been before us in this session and in the immediately preceding session. The Southern Power and Water legislation provides for a maximum term of three years, the Construction Industry Training Fund is three years, the Dairy Authority is three years and the Economic Development Authority is three years. It seems to me that there is a measure of consistency which we ought to maintain here.

The Hon. ANNE LEVY: I am happy to accept the amendment, although I point out that the Development Assessment Commission has a maximum term of five years. I have no strong feelings on this and I am happy to make it three years in this case.

Amendment carried; clause as amended passed.

Clause 16 passed.

Clause 17—'Committees and subcommittees of Authority.'

The Hon. DIANA LAIDLAW: Can the Minister provide details of the committees or subcommittees that are proposed for establishment under this legislation and of those that may be required by way of regulation?

The Hon. ANNE LEVY: I dealt with this at considerable length in my second reading reply to this Bill. I do not know whether the honourable member would like me to repeat it. In summary, I gave an undertaking that in the early years of the EPA's operations we envisaged that specialist advisory committees would operate in the areas of water quality, including marine, inland and stormwater quality. Specialist advisory committees will operate in the areas of water quality, including marine, inland and stormwater quality, on waste minimisation and kerbside recycling, and on contaminated sites and air quality, particularly relating to motor vehicle emissions. That is probably a summary of the information given previously.

The Hon. M.J. ELLIOTT: I asked for clarification and I do not think the Minister quite answered. It was not clear in my mind whether or not there was a separate committee for marine water quality as distinct from inland water quality or storm water.

The Hon. ANNE LEVY: I think it is appropriate that, once it is established, the EPA be able to give consideration whether it feels one committee could deal with these three areas or whether three or perhaps two separate committees would be desirable. It would be unreasonable to expect the Minister to lay down such definitive numbers of committees at this stage before the EPA has had a chance to be involved in any decision.

Clause passed.

Clauses 18 and 19 passed.

Clause 20—'Membership of forum.'

The Hon. DIANA LAIDLAW: I move:

Page 17, line 22—After "conservation" insert "of whom one must be a person nominated by the Conservation Council of South Australia Incorporated".

The clause provides that, in terms of the membership of the forum, three of the 20 people will be persons with experience in and membership of organisations whose charters include environmental protection and conservation. I am moving that one of them must be a person nominated by the Conservation Council of South Australia. The amendment acknowledges that the Local Government Association and the United Trades and Labor Council can so nominate one member on the committee. I am pleased to learn that the Minister will accept the amendment.

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

The Hon. M.J. ELLIOTT: I support the amendment but in doing so note, as I did during the second reading stage, that I think it is highly likely that the forum will prove to be one of the greatest time wasters. Indeed, it is the committees we have just glossed over in clauses 17 and 18 which give us the greatest opportunity of real input of community expertise. This forum of some 20 members, meeting infrequently and trying to cover the whole gambit of things under the control of the EPA, does not make for a forum or group that will actually do anything of great significance.

It was only today I had contact from the fishing industry which expressed exactly the same view point. It felt that committees, like the marine environment protection committee, were very important. It was obvious from an earlier question I asked and the answer I received that there may not be a marine environment protection committee; there will be a more general water committee. The great focus seems to be on this forum which will, I am sure, be a failure but I guess as things stand we will have to leave it for time to prove or disprove my thesis.

The Hon. DIANA LAIDLAW: In respect of clause 20(5) and the reference to appointments, it states:

. . . the Governor must have regard to the need for the Forum to be sensitive to cultural diversity in the population of the State.

And subclause (6) states:

The membership of the forum must include both women and men.

The issue of cultural diversity is not one that I have seen in Bills other than relating to the Multicultural and Ethnic Affairs Commission. Can the Minister indicate how the Government proposes to have regard to cultural diversity when in fact the membership of this forum is specifically designed to look at issues and have representatives of various industry sectors such as manufacturing, mining and energy and also local government? Perhaps it is in the Government's own appointments that it is seeking to ensure this cultural diversity. I would like to learn from the Minister the practical workings of this new element in terms of memberships of committees, statutory authorities or forums.

The Hon. ANNE LEVY: To some extent the honourable member has answered her own question. It is true that where members to various Government boards and committees are nominated by outside bodies all the Government can do is suggest to such bodies that it wishes to have representatives of cultural diversity on the committee and indeed it wishes to have equal numbers of men and women on a committee. But where the gift of nomination lies with an outside body all the Government can do is exhort and hope that at some time these organisations will take note of such exhortations which, I may say, they do not always do.

Of course, there are numerous members of the forum who are appointed by the Government, where the Cabinet can make its own choice, and if the people nominated by outside bodies do not include sufficient cultural diversity and do not

include appropriate balance of the sexes then the Government can attempt to remedy these deficiencies in its own nominations.

Amendment carried; clause as amended passed.

Clauses 21 and 22 passed.

Clause 23—'Proceedings of forum.'

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

Page 19, after line 20—Insert subclause as follows:

(5a) Where a member of the forum has a direct or indirect pecuniary or personal interest in a matter decided or under consideration by the forum—

(a) the member must, as soon as practicable after becoming aware of the interest, disclose the nature of the interest to the forum; and

(b) the disclosure must be recorded in the minutes of the forum.

Penalty: For a contravention of paragraph (a)—Division 8 fine.

This amendment relates to the proceedings of the forum. The forum has the function of advising the authority and the Minister and presenting the views of interested organisations and the community concerning issues, proposals and policies related to the protection, restoration or enhancement of the environment within the scope of this Act. It is acknowledged that some of the members may at least have personal or pecuniary interests in respect of a particular matter which I think ought to be disclosed.

It may be, as the Hon. Mr Elliott suggests, that the forum will not be a particularly valuable instrument for giving advice or considering issues but the fact is that it is in the Bill and it should be given an opportunity to work. It is for that reason that I am seeking to ensure that where a member of the forum has a direct or indirect pecuniary or personal interest in the matter decided or under consideration by the forum then that ought to be disclosed and to have the disclosure recorded in the minutes. It should be noted that there is not the same embargo placed upon a member of the forum as there is on a member of the authority. Under clause 18 a member of the authority is not to take part in any deliberations or decisions of the authority. I think there is a distinction. The forum is more broadly based and it is in the nature of an advisory body not a determining body and it is for that reason that I think that disclosure of the interest and recording of the interest should be sufficient.

Nevertheless, where advice is given, it is important to have on the record any element of conflict, and also, to maintain the integrity of the process, members of the forum ought to be reminded of their responsibility to declare an interest should one arise.

The Hon. ANNE LEVY: The Government is prepared to accept this amendment. We appreciate the distinction between an advisory body, such as the forum, and the authority, which has considerable powers. It was for that reason that the distinction was made in the legislation. There will still be a difference between the two, as indicated by the Hon. Mr Griffin, reflecting the different powers of the two bodies. I would perhaps question whether it is necessary to create an offence, however small the penalty, but we are prepared to accept the amendment.

Amendment carried; clause as amended passed.

Clause 24—'Environment protection fund.'

The Hon. DIANA LAIDLAW: I should be interested to learn more about this fund. Does the Government have any idea what the budget for the work of the authority will be? As motorists, we started paying something from the time of the August 1992 budget, or shortly thereafter, by way of a proportion of the fuel franchise fee towards the expenses of this authority. I am not sure how much has been raised by that means at this stage and whether the full sum is to be transferred to this fund. I note that the EPA is to have considerable powers to administer the fund, but no person with financial management experience is required on the membership of the authority. I find that a little disturbing when we consider some of the other things that have happened in terms of the funds and finances of statutory authorities in this State even when there were people with professed management experience. I should like answers to those general questions, and I have more.

The Hon. ANNE LEVY: I can assure the honourable member that most of the money to fund the workings of the EPA will not be going through the Environment Protection Fund. The staff of the EPA will not be employed by the EPA itself; they will continue to be public servants, part of an office in the Department of Environment and Natural Resources, and subject to the GME Act. The funding of the ongoing overhead costs of running the EPA office will be via appropriations to the Department of Environment and Natural Resources and can be queried in this Parliament through the budget process, as are the appropriations for any other Government department.

The Hon. Mr Griffin raised concerns as to whether there would be appropriate parliamentary supervision of the Environment Protection Fund. Money can be appropriated by Parliament to the fund. Clause 24(1)(f) provides that authority. In addition, certain moneys can be directed into the fund by regulation, providing for payment into the fund of prescribed percentages of fees, penalties and the waste management levy. Of course, regulations providing for this can be disallowed by Parliament at any time.

The Government can also decide to pay in other appropriated sums. Expiation fees will be paid directly into the fund, and there are other provisions by which money comes into the fund. The expenditure of money from the fund will not require further appropriation, but the requirement for annual reporting of the expenditure of the fund ensures accountability to Parliament. That is provided for in clause 112. There will be reporting of all the expenditure and what goes into the fund, and Parliament will have a large degree of control over what money actually goes into the fund.

The Hon. DIANA LAIDLAW: Subclause (4) provides that the fund may be applied by the Minister or by the authority. Who ultimately is responsible for the fund? If the Minister wants to direct that funds be applied, should that be in writing to the authority? It is not clear to me who ultimately is in charge of and accountable for this fund, whether the authority or the Minister. There does not seem to be a very good relationship defined here between those two. Lastly, can the Minister confirm that, unlike the highways fund, this is not meant to be a self-supporting fund for all the activities and expenses of the EPA? I understood that, when the Government was looking at the fuel franchise fee through the budget process last year, that money was to go towards the funding of the EPA.

The Hon. ANNE LEVY: Yes.

The Hon. DIANA LAIDLAW: You are distinguishing between the funding of the EPA and the moneys going to this fund?

The Hon. ANNE LEVY: Yes.

The Hon. DIANA LAIDLAW: Can the Minister indicate how much has been raised through the fuel franchise fee for the administration of the EPA?

The Hon. ANNE LEVY: I am informed that the fuel franchise fee raised $3.7 million in the part year for which it

operated and it is expected to raise about $4.2 million in a full year. That will certainly be applied towards supporting the EPA office, which is staffed by public servants who are subject to the GME Act and are not employees of the authority. In the same way, employees of the Art Gallery are GME Act employees and not employed by the board of the Art Gallery. That is an analogous situation.

The EPA fund itself will ultimately be under the control of the Minister; as indicated here, with the approval of the Minister, the authority can spend the fund money on various activities, but the ultimate responsibility lies with the Minister and through the Minister, of course, to this Parliament.

Clause passed.

Clauses 25 to 27 passed.

Clause 28—'Normal procedure for making policies.'

The Hon. DIANA LAIDLAW: This clause relates to the normal procedure for making policies. Why in subclause (5) is it provided that the draft policy and the report prepared in relation to it under subsection (4) must then be referred by the authority: (a) to the forum; and (b) to any public authority whose area of responsibility is, in the opinion of the authority, particularly affected by the policy? Why is a business or enterprise that may well be the focus of a policy not to be one party nominated where the authority must refer that policy?

It is noted in subclause (6) that, by advertisements, interested persons can be invited to make written submissions, but there may well be cases where the policy affects one particular enterprise or business. I do not think that they should necessarily be simply alerted to the fact that the policy has been prepared by noting some advertisements circulating in a newspaper. Why then does it relate to the forum and to a public authority and not to a business enterprise where the policy particularly relates to that business enterprise?

The Hon. ANNE LEVY: I point out that before the authority prepares a policy it has to advertise the fact that it intends to prepare a policy so that public notice is given of the fact that it is considering a policy in relation to a particular matter which may have an impact on some industry or firm. When the draft policy has been prepared it is referred to the forum, and there are on the forum numerous industry representatives who can certainly draw it to the attention of any individual businesses which they feel may be particularly affected or any category of business or any grouping within industry which they feel may be particularly affected by it. I should imagine that, if there was one firm only or one firm which would be overwhelmingly affected by a particular policy, the authority would provide information to that firm now.

The Hon. Diana Laidlaw: It doesn't have to.

The Hon. ANNE LEVY: It does not have to, because in many cases one could be sure that only one firm would be affected. There may be a number, and it is better that notification be done through industry representatives such as are on the forum, rather than have an obligation to contact every firm that might be affected, which may leave out one, two or several small firms which will then feel very hurt and that the Act has not been followed in their regard.

There is no intention, I can assure members, to try to sneak things past without people who will be affected having an opportunity to comment. What is in the Bill is the minimum which the authority must adhere to. I imagine that in many cases it would notify individual firms which it knew would be particularly affected, but to make it mandatory could mean that there were cases where this did not occur, not through any spirit of malevolence but simply through lack of knowledge.

I repeat that the industry representatives on the forum are there to ensure that industry is represented and kept informed and, of course, the industry representatives on the forum, through their industry and business associations, can draw the attention of the matter to anyone whom they feel it is relevant to be contacted. I repeat that there is no intention of trying to slip things through, but there is a difference between setting down in the Bill what is a minimum mandatory level of consultation and what may be undertaken by the EPA in a particular circumstance.

The Hon. DIANA LAIDLAW: I am not suggesting any sinister motive on behalf of the Government or the authority. I just find it surprising that the term 'must' is used in this context where the authority is required to refer the draft policy to the forum or to a public authority. As we have indicated earlier in the interpretation clauses, a statutory authority or council can include regional development councils. I think there will be instances where certain businesses are definitely affected by certain policies, and I do not think we should be expecting them to hear about the completion of the draft review through a notice published in the *Gazette* or a newspaper.

I would like the Minister to look at this again, because I cannot see why we cannot have a subclause (5)(c), under which a draft policy or report prepared in relation to it under subsection (4) must be referred to any business whose area of responsibility is in the opinion of the authority particularly affected by the policy. We are not asking every single business; there is the qualification 'in the opinion of the authority', so there is that defence, and there is the phrase 'particularly affected by the policy'. I would have thought that they could easily be identified in most instances, and we should be paying them such a courtesy.

Clause passed.

Clause 29—'National environment protection measures automatically operate as policies.'

The Hon. DIANA LAIDLAW: I oppose the clause, which relates to the national environment protection measures, which should automatically operate as policies. I argued this case extensively at clause 13, but I did not win the argument then. I emphasise strongly that this clause is not required now, because we should not be making such an undertaking to accept automatically these national environment protection measures. I have been in contact with other States and, for example, in Western Australia they have not seen in recent amendments a need to make such provisions at this time. They are prepared to go through the process which, I think, all of us should be going through, that is, working through the Party setup to look at draft legislation and the form of complementary legislation. It is premature and unnecessary that we should be binding this Parliament without qualification to accepting automatically all such policies in the future.

I remind the Committee that the time for such a debate is not now but when the complementary legislation is before this place. We can easily look at amending the Bill at such a time, just as we are amending the Development Act arising from this Bill, that Act having passed through this Parliament many months ago. It is not necessary to have every single feature of the Bill discussed at this time, and the Bill can be amended easily when we look at that complementary legislation, as the Minister says, early next year. That is the appropriate time for debate on such measures, when South

Australia has been involved in the discussion and debate and when we understand all the ramifications that we do not understand now.

The Hon. M.J. ELLIOTT: I have a question about the clause. Subclause (1) provides that when a national environment protection measure comes into operation under the prescribed national scheme laws the measure comes into operation as an environment protection policy under this division.

Under subclause (3)(b) it is made clear that the environment protection policy comes into operation by virtue of subsection (1) and cannot be varied or revoked except by environment protection policy made under this division that imposes more stringent measures for the protection of the environment.

I seek clarification because, if an existing measure or policy is in place and the national environment protection measure comes into operation, if it has a policy which in the first place is less stringent, what is the position? As I read subclause (1), it simply says that the national environment protection measure would replace existing policy. If I read subclause (1) in isolation, as it stands, when the national standard comes into place it replaces the State standard although subclause (3)(b) allows for variation or revocation.

My reading is that the variation or revocation would happen subsequent to the national standard coming into place, because subclause (1) seems to imply that the national measure in the first instance seems to supplant the existing State protection policy. That may not be the intention, but will that be the practical effect of the way it is currently structured?

The Hon. ANNE LEVY: I am advised that it is a misreading of clause 29(1) to suggest—

The Hon. M.J. Elliott: Might a lawyer or even a judge misread it in a similar manner?

The Hon. ANNE LEVY: I am advised that it is a misreading to suggest that any national environment protection measure which comes into operation supplants automatically a more stringent existing State measure. That is not the correct interpretation of subclause (1). As the honourable member points out, none of clause 29 can become operative until the appropriate legislation has been passed through the Commonwealth Parliament, with complementary legislation through this Parliament.

The Hon. M.J. ELLIOTT: Subclause (1) provides that 'when a national environment protection measure comes into operation. . . the measure comes into operation as an environment protection policy under this division.'

The Hon. Anne Levy: It sits alongside whatever is already there.

The Hon. M.J. ELLIOTT: They may vary. Which has precedence?

The Hon. Anne Levy: Whichever is the more stringent.

The Hon. M.J. ELLIOTT: It talks about variation or revocation. Revocation involves an action after the event. Is a variation something which must happen after the national standard has come into place? I am talking not about intent but about the practical legal effect as to how this is drafted. These are two different things. I do not have any problems with my understanding of the intention of this, where a more stringent State standard applies, but I am not convinced that that is what happens here. My reading is that the national standard comes into force but may later be varied or revoked by more stringent State measures.

The Hon. K.T. GRIFFIN: I understand the point the Hon. Mr Elliott is making, and the clause is certainly open to that interpretation. I want to make a couple of other points. I want to reinforce the comments of my colleague the Hon. Diana Laidlaw and strongly support her argument that it is premature to be including clause 29 in this Bill when we do not have a clue what is going to be in the prescribed national scheme laws, either of the Commonwealth or of this State. The appropriate time for including the clause is when the prescribed national scheme laws come before the South Australian Parliament and, as a consequential amendment, clause 29 is then presented for consideration by the Parliament.

At present what we are doing is in ignorance of what is in the national scheme laws and we are legislating in a vacuum. The clause provides:

> When a national environment protection measure comes into operation under the prescribed national scheme laws—

whatever they might be when one looks into the crystal ball—

> the measure comes into operation as an environment protection policy under this division.

What is going to be in that policy? Will offences be created? Will penalties be imposed? If one looks at the environment protection policies under clause 27 of the Bill, one sees that the State policies can set out controls or requirements to be enforceable as offences (and under division 2 it sets out substantial penalties) and policies that may be given effect to by the issuing of environment protection orders.

If they are to contain offences and penalties, this Parliament is entitled to know what they are. There is an even more compelling reason for rejecting clause 29, and that is that, if a national environment protection measure comes into operation under the prescribed national scheme laws, it does so without any involvement of this Parliament. It is not subject to scrutiny as subordinate legislation.

The Hon. M.J. Elliott: What about mutual recognition?

The Hon. K.T. GRIFFIN: No, mutual recognition is a different issue from this, because mutual recognition deals with certain standards in relation to goods and occupations. What this does is to set a regulatory regime where offences may be created and penalties imposed. That then becomes the law of South Australia without being subject to any scrutiny. It is the same point that I am sure the Hon. Diana Laidlaw will be making in relation to clause 31 with State based environment protection policies. Although under clause 31 there is some measure of scrutiny by a committee of the Parliament, it is our view that there ought to be broader scrutiny.

But when the national environment protection measure comes into operation there is no scrutiny either by the Legislative Review Committee or even by a House of this Parliament. So, it is not just a matter of saying which is the more stringent or which is the less stringent of the measures; it is also a question of determining the nature of the policy and whether it is appropriate for South Australia. What sort of offences does it create? Does it seek to put people in gaol as a result of offences that it creates? They are not going to be subject to any scrutiny by this Parliament, and that is the objectionable aspect of clause 29 and the basis upon which I believe we ought to be vigorously opposing that clause.

The Hon. ANNE LEVY: I remind members that the national policy on environmental protection will be implemented by legislation that will pass through this House. With regard to the question raised earlier by the Hon. Mr Elliott,

I point out that the Intergovernmental Agreement on the Environment, which was signed in February last year, in schedule 4 states:

> Nothing in this agreement will prevent a State or the Commonwealth maintaining existing more stringent standards which are in effect at the date when the authority comes into existence.

It also states that the measures established and adopted in accordance with the above procedure will not prevent the Commonwealth or a State from introducing more stringent measures to reflect specific circumstances or to protect special environments, etc. Certainly, with this agreement, the existing more stringent standards are maintained and do not have to be redone by South Australia.

The Hon. M.J. ELLIOTT: What the Minister was quoting from there is not part of this legislation. What I am asking is whether or not this clause not only reflects the intention but actually achieves legally what the intent was. It still appears to me that clause 29 is open to two different interpretations. I suggest that, at the very least, we should be considering an amendment to put beyond any doubt that my concerns are unfounded.

The Hon. ANNE LEVY: Parliamentary Counsel informs me that the clause does do what I have said it does and what is intended. With the advice of Parliamentary Counsel, I see no reason to amend it.

The Hon. K.T. GRIFFIN: The Minister has said that the prescribed national scheme laws will come before the Parliament. They may do, but we have no idea what they will contain. That still does not address the points I am making. The point is that when a national environment protection measure comes into operation under those national scheme laws, which presumably is something akin to an environment protection policy, then the measure comes into operation as an environment protection policy under this division. My point is that, even if we do have the national scheme laws considered by this Parliament as an Act of the Parliament, the fact is that there appear then to be measures which can come into operation as environment protection policies and which may create offences, penalties and so on, and range over a wide area, without further scrutiny by the Parliament.

If they then have the force of law and create offences, penalties and so on, they ought to be subject to scrutiny by the Parliament of this State because they then become laws of this State. What the Minister has said has not in any way changed the strength of what I am proposing to the Committee. If the national scheme laws, which are referred to in this clause, are not even drafted yet and not going to be ready for consideration by Parliaments for many months, does that mean that there is a prospect that clause 29 and those parts of the Bill that relate to national environment protection measures will be suspended from coming into operation?

The Hon. ANNE LEVY: As I understand it, as worded they cannot come into operation; clause 29 can become operative only when a national environment protection measure comes into operation. If there is no such thing, it makes no difference whether or not clause 29 has been proclaimed. It is of no effect.

The Hon. K.T. GRIFFIN: The point is that it then preempts to some extent what the Parliament may be considering in the context of national scheme laws.

The Hon. M.J. ELLIOTT: What other States have at this stage legislated in a similar fashion to that covered by this clause?

The Hon. ANNE LEVY: We are the first State to implement in legislation the model by which this national protection will occur, but the method by which we are doing so has been discussed by Commonwealth and State officials from all States and all are agreed on this procedure as the best way of achieving the aim of national environment protection measures.

The Hon. DIANA LAIDLAW: This is extraordinary. The model that has been agreed upon through the intergovernmental agreement signed last year was for complementary legislation, not for this provision. I have spoken not to officers but to Ministers and their advisers and it is something of a surprise that we would be moving in this fashion, preempting the working party agreement on the complementary legislation. It is something that has been dreamt up in this State for heaven knows what reason, and it is not the model that has been agreed to at the Commonwealth, State and Territory levels.

The Hon. ANNE LEVY: The honourable member is confusing legislation for measures with implementation legislation. This is dealing with a method of implementation and I am assured that there is national agreement at the officials' level that this is the best way of proceeding towards implementation of national environment protection measures.

The Hon. DIANA LAIDLAW: The Minister is talking about the officials' level and they may well work in isolation without reference to their Ministers, but the Minister is now talking about implementation. I am certainly not confused between the complementary legislation and the implementation. This is implementation before we have even seen the legislation and the complementary legislation which surely is required before we talk about how one is going to implement these policies. The Government has put the cart before the horse and this is the most extraordinary procedure, providing, as the Hon. Trevor Griffin has indicated, no measure for this place to be involved in the debate on the standards here. We in this place would not tolerate that in respect of subordinate legislation or regulations. We would not tolerate it and yet here we are assuming that this would be implemented without any input from the State; implemented sight unseen. Before we have even had the enabling legislation we are talking about the implementation. It is not necessary. It is premature and it should be defeated.

The Committee divided on the clause:

AYES (7)

Crothers, T.	Levy, J. A. W. (teller)
Pickles, C. A.	Roberts, R. R.
Roberts, T. G.	Weatherill, G.
Wiese, B. J.	

NOES (10)

Davis, L. H.	Dunn, H. P. K.
Elliott, M. J.	Gilfillan, I.
Griffin, K .T.	Irwin, J. C.
Laidlaw, D. V. (teller)	Lucas, R. I.
Schaefer, C. V.	Stefani, J. F.

PAIRS

Feleppa, M. S.	Burdett, J. C.
Sumner, C. J.	Pfitzner, B. S. L.

Majority of 3 for the Noes; clause thus negatived.

Clause 30—'Simplified procedure for making certain policies.'

The Hon. DIANA LAIDLAW: I move:

> Page 27, line 23—After 'modification' insert 'the whole or part of a national environment protection measure or'.

This amendment provides that national environment protection measures, although not automatically operating as

environmental protection policies, may be adopted as policies using this simplified procedure set out in clause 30 and is consequential upon the defeat of clause 29.

Amendment carried; clause as amended passed.

Clause 31—'Reference of policies to Environment, Resources and Development Committee of Parliament.'

The Hon. DIANA LAIDLAW: I have three amendments. I would like to move them separately but speak to them as a whole.

The CHAIRMAN: That is all right.

The Hon. DIANA LAIDLAW: I move:

Page 28, lines 4 and 5—Leave out ", within 28 days," and all words in line 5 and insert:

(a) within 14 days, refer the policy to the Environment, Resources and Development Committee of the Parliament; and

(b) within 14 sitting days, cause the policy to be laid before both Houses of Parliament.

I would like to explain the procedure that the Government proposes for reference to policies to the Environment, Resources and Development Committee of the Parliament. The Government proposes that when a draft environment protection policy has been declared the Minister must, within 28 days, refer that policy to the Environment, Resources and Development Committee of the Parliament. That committee then has the option of suggesting amendments or objecting to the policy. If amendments are suggested the Governor may, on the recommendation of the Minister, proceed with such an amendment, or the Minister must report back to the committee that he or she is unwilling to recommend that the policy be amended.

If the latter option is chosen the committee can resolve not to proceed with the amendment that it had earlier proposed or it may object to the whole policy. If it resolves to object to the policy then copies of the policy must be laid before both Houses of Parliament, and only at that stage is the Parliament itself involved, and either House can then pass a resolution disallowing the policy and the policy would cease to have effect. We are proposing a number of amendments to that procedure. First, instead of within 28 days the policy being referred to the Environment, Resources and Development Committee, we are proposing that within 14 days the policy be referred to both the Environment, Resources and Development Committee of the Parliament and to be laid before both Houses of Parliament.

This is the procedure for subordinate legislation for regulations to the Legislative Review Committee. It is a procedure we understand in this place. It is the same procedure, or at least a small variation, for SDPs to the Environment, Resources and Development Committee. We believe strongly that the Parliament should be involved in this process at an earlier stage just as it is with regulations, and we must remember that in this instance these policies may well define offences and enormous penalties. It should not be a matter just for consideration by the Environment, Resources and Development Committee, notwithstanding my faith within that committee process. It should be, as with regulations, a matter that can be immediately laid before both Houses of Parliament and can be disallowed by either place. We believe that this is a critical amendment to this Bill.

The Hon. ANNE LEVY: The Government opposes this amendment and, as the honourable member spoke to the three amendments as a whole, I will do so likewise. The mechanism which is provided for disallowance of environment protection under this Bill is identical to that for amendments to development plans, which was recently passed by this Parliament in the Development Act. There are surely grounds for having consistency in procedures between this Act and the Development Act.

The environment protection policies which are to be prepared in a process which involves extensive public consultation are then declared by the Governor to be authorised environment protection policies. The policies are then referred to the Environment, Resources and Development Committee of the Parliament. That committee has the power to recommend amendments to the policy which can be adopted by the Governor by a subsequent notice in the *Gazette*. If the Environment, Resources and Development Committee resolves to object to the environment protection policy then the policy is laid before each House of Parliament and either House can disallow the policy.

Again, in a similar way to the provisions of the Development Act, this Bill provides that a draft environment protection policy can come into operation on an interim basis prior to or at some stage during the process of public consultation. Where this mechanism is used to bring an environment protection policy into operation then that policy can be disallowed in the same way as any regulation by either House of Parliament. That is provided for in clause 32(3) and (4) of the Bill. I stress that identical provisions are contained in section 28 of the Development Act.

The crucial difference between these two mechanisms is that in the normal process before a draft environment protection policy is authorised by the Governor an extensive process of public consultation is undertaken. Under clause 28(3) public notice is given by the EPA prior to the preparation of a draft environment protection policy. When the EPA has prepared a draft environment protection policy a report is also prepared pursuant to clause 28(4) of the reasons for the policy and the effect of the policy. The draft policy is then referred to the advisory forum. It is referred to relevant Government agencies and to the general public through a newspaper advertisement.

Written submissions are invited and provision is made for public hearing. The EPA is then required to consult with the forum and relevant public authorities and provide a redrafted policy for consideration of the Minister and the Government taking into account the written or oral submissions from the public.

We believe that the extensive provision for public consultation, combined with the provision allowing the Environment, Resources and Development Committee to put the policy before each House of Parliament for disallowance, provides adequate safeguards. The effect of the amendments is to treat environment protection policies in the same way as any other form of regulation; but regulations do not have such a comprehensive process for public consultation and public submissions as environment protection policies have under this Bill or as amendments to development plans have under the Development Act. The Government opposes all three amendments because it would make the procedure for changing or setting up environment protection policies different from those for development plans under the Development Act. Surely it seems desirable to have the same procedures followed with extensive public consultation in both cases for both this legislation and the Development Act.

The Hon. M.J. ELLIOTT: I agree with the Minister that the two pieces of legislation should be the same, but I believe that the Development Act should have been different. I wanted the development plans to work in a similar way to

regulations. I am convinced by the Minister's argument, so I shall be supporting the amendment.

The Hon. K.T. GRIFFIN: I should like to make one significant point. The difference between the two in any event is that under this Bill the environment protection policies create offences. If we look at division 2 of this part, imprisonment can be imposed. Where significant penalties can be imposed, they should be subject to wider scrutiny than is presently in the Bill.

The Hon. ANNE LEVY: It is true that environment protection policies can contain offences and penalties. Development plans under the Development Act do not contain penalties, but amendments to a development plan can affect legal rights and liabilities in significant ways. The provisions in this Bill are seen as being appropriate and the amendments are opposed.

Amendment carried.

The Hon. DIANA LAIDLAW: I move:

Page 28—

Lines 6 to 22—Leave out subclauses (2), (3), (4) and (5) and insert—

(2) If the Environment, Resources and Development Committee, after receipt of the policy under subsection (1), resolves to suggest an amendment to the policy, the Governor may, on the recommendation of the Minister, by notice in the *Gazette*, proceed to make such amendment.

After line 24—Insert subclause as follows:

(6a) If an amendment suggested by resolution under subsection (2) has been made to the policy by the Governor under that subsection, a resolution may nevertheless be passed under subsection (6) disallowing the policy as amended.

I would argue that these amendments are consequential.

Amendments carried; clause as amended passed.

Clause 32—'Interim policies.'

The Hon. ANNE LEVY: I move:

Page 29, line 23—Leave out 'an amendment' and insert 'a policy'.

I understand that this is to correct a mistake in the drafting.

Amendment carried; clause as amended passed.

Clauses 33 to 37 passed.

Clause 38—'Exemptions.'

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

Page 32, line 27—After 'Part' insert 'but only as provided by the regulations'.

The clause as it stands allows exemptions to this legislation to be granted, and essentially it will. It seems wrong that we should have a process whereby policies are derived—in fact, we have just passed an amendment to make sure that those policies come before the Parliament, not simply the Environment, Resources and Development Committee—and then we have a loophole because exemptions can be granted basically at will with no prescription as to when, how or why exemptions may be granted.

I understand this is not present in any other legislation, and certainly not in Victoria or Tasmania. This is an open ended ability to grant exemptions. It seems to me that we should be attempting to define when exemptions can be granted. It is not my intention that every exemption should come before the Parliament. I believe it should be possible to categorise exemptions by regulation. For example, I understand that one form of exemption which may be given from time to time is for rock concerts which exceed noise levels. If exemptions were to be granted for rock concerts, I should have thought that at the very least we would have a regulation which defined the basis on which those exemptions may be granted. I believe all exemptions should be capable of categorisation. I objected very strongly to particular exemptions being given to companies, but at least they were being defended by the fact that they were exemptions granted under previous legislation. However, here is something which is totally open ended, and as such I find it unacceptable.

I am only too well aware of a lack of willingness in the past on the part of officers within the then Department of Environment and Planning to enforce the law. In effect, they were granting exemptions by not enforcing the law. Here we are setting about having clearly defined policies, and then we have this exemption clause which provides that at any time those policies might be ignored by the granting of exemptions. We must define more precisely when exemptions may be granted. That is what the amendment is about, and it is consistent with other amendments that have been passed so far.

The Hon. ANNE LEVY: The Government strongly opposes this amendment. It is certainly not an open ended provision for exemptions, as the honourable member said. I think the amendment would be unworkable. It would require all conceivable categories of exemption to be specified in advance in regulations, and it would undermine the Bill's comprehensive scheme for EPA decisions. It goes contrary to the whole philosophy of the legislation of having individual applications determined by the EPA, which is the independent statutory authority which is at arm's length from the Government. It is introducing a completely unacceptable level of uncertainty for applicants as to whether or not the EPA exemption decisions will stand.

The Hon. M.J. Elliott: Nonsense.

The Hon. ANNE LEVY: Look, you've had your turn; let me have mine, will you? You can come back later.

The CHAIRMAN: Order!

The Hon. ANNE LEVY: It is not nonsense. I have been accused of talking sick talk, codswallop and now nonsense. I object, Mr Chair; I am trying to debate a very serious matter this evening, and I expect to be able to do so without being insulted when I put forward the Government's point of view.

The CHAIRMAN: We are in Committee, and everybody has the opportunity to challenge everybody else, so there is no need to get excited.

The Hon. ANNE LEVY: The principle of the Act is to have a streamlined system for a single, combined environmental authorisation, and this amendment will make such a system unworkable. It is certainly not true that the provision for exemptions is totally open ended, and it is certainly not providing blank cheques for Government.

The exemption provision in clause 38 is well circumscribed by a number of other significant aspects of this Bill, and I would ask members to note particularly that the EPA—not the Minister, not the Government, but the EPA—is entrusted with decision making responsibility for environmental authorisation, including exemptions, and the EPA's power to grant exemptions is to be limited by the terms of relevant policies.

The EPA will also have to follow an open public process in considering all applications for exemptions; it must have regard to criteria which are specified in the Act, including environmental objectives and any other relevant considerations when it is making its decisions; and it will need to tailor exemptions to the specific activity and circumstances. Overall, we can see that the Bill provides a very sensible, effective, objective and most open system for considering exemptions, with the EPA as a totally independent statutory

authority. It will have to reach a balanced decision based on environmental and other relevant considerations in setting appropriate terms and conditions.

By contrast, the result of the Hon. Mr Elliott's amendment would undermine this whole systematic approach, and it assumes that we can conceive of the various categories of exemption in advance and specify them all in regulations, and that is just impractical. I refer to the effect on any EPA exemptions which were subject to some prior regulation defining the categories of possible exemption or perhaps some subsequent ratifying regulation for individual exemptions authorised by the EPA but not falling within preconceived categories. Either way, the amendment is introducing a great deal of uncertainty for people needing to rely on an exemption, and it will undermine a significant reform which sees exemptions decided independently by the EPA in its quasi-judicial decision making capacity.

Instead of arm's length decision making, exemptions would again be subject to political decisions, either within Government or within Parliament. I know that the amendment is strongly opposed by many people in the community who have informed the Government that they feel it would be totally unworkable.

The Hon. M.J. ELLIOTT: This is not inconsistent with the Act; in fact, it makes the Act more consistent. The fact is that, while the policies are derived by the EPA, they are finally approved by the Parliament. This allows the EPA to exempt provisions from policies which have been approved by the Parliament. This amendment is merely asking that, if there are to be exemptions, they should come about by a methodology approved by the Parliament itself. It is not a matter of the Parliament becoming individually involved with particular exemptions. It is seeking to put consistency into the Act and not the opposite, which is what the Minister is inferring.

The Hon. DIANA LAIDLAW: I am puzzled by the Minister's argument that this would lead to more uncertainty, when it must be entirely uncertain at the moment given that it is open ended, as is provided in this Bill, and it is left to the whim of the EPA whether or not it would grant an exemption. At least—

The Hon. Anne Levy: They are very strict guidelines.

The Hon. DIANA LAIDLAW: I would be keen to learn more about those very strict guidelines. I would suggest that we could provide such guidelines through this regulation. That would therefore introduce some certainty to companies and the like, because they would know the parameters within which these exemptions would apply. I find this absolutely extraordinary when one considers the legislation that this Bill replaces, all of which has been around for years and years, except perhaps the marine environment legislation, which has been in place for only a couple of years. The Government must have a very good idea of areas where exemptions have been granted in the past. There would be a lot of experience in this.

The Hon. M.J. Elliott: Totally predictable.

The Hon. DIANA LAIDLAW: Well, there should be a lot of experience built up in this field over time, where there should not be a need for surprise. I feel very uncomfortable about the Government's arguments against the Democrats' amendment. I appreciate that the Government has received strong support for this amendment from the Chamber of Commerce and Industry and from BHP, both of which I must add have responded clearly to briefing notes that an officer (who I understand may be briefing the Minister) sent to them. Both those bodies have responded to this officer's note.

The Hon. M.J. Elliott: She stirred them up.

The Hon. DIANA LAIDLAW: She stirred them up, and I think she was working on the basis of fear, because that is what is being perpetrated here. We have got used to that in terms of the Government's response to anything leading up to the next election. Fear seems to be the only thing it can sell, and it seems to be the only thing it is selling to many people in relation to some aspects of this Bill and some amendments. I have discussed this matter with my Party. We are in two minds about this matter. I am taking it upon my own shoulders, because I suspect that this Bill will be a matter of further debate, to say that we will support this provision.

Amendment carried; clause as amended passed.

Clauses 39 to 47 passed.

Clause 48—'Criteria for grant and conditions of environmental authorisations.'

The Hon. ANNE LEVY: I move:

Page 38, lines 8 to 12—Leave out all words in these lines and insert:

(i) works approval authorising works for the purposes of a prescribed activity of environmental significance; or

(ii) a development authorisation under division 1 of Part 4 of the Development Act 1993 authorising a development for the purposes of a prescribed activity of environmental significance on each application in respect of that development referred to the authority in accordance with that division; or

(iii) a development authorisation under division 2 of Part 4 of the Development Act 1993 authorising the development or project for the purposes of a prescribed activity of environmental significance; and.

The amendment makes two significant changes to the clause. New clause 48(2)(a)(ii) takes account of the provisions of the Development Act which allow development authorisations to be obtained in stages. The EPA will need to consider all relevant referrals in relation to a development before the requirement for the EPA to grant a licence in relation to the whole development comes into force.

New clause 48(2)(a)(iii) provides that, where a development authorisation has been issued under the Development Act by the Governor for a major development or project, the EPA may not refuse to grant an EPA licence for the development. The development regulations will provide for referral to the EPA of environmental impact statements relating to prescribed activities of environmental significance in schedule 1 of the Bill. Those are the activities requiring an EPA licence. Since those EISs will have been referred, an EPA will then be guaranteed. Changes to the Development Act to facilitate this are included in proposed amendments to schedule 2 of the Bill.

The Hon. M.J. ELLIOTT: In a spirit of compromise, we will accept the amendment.

Amendment carried.

The Hon. ANNE LEVY: I move:

Page 38, line 16—Leave out 'use the building or structure for' and insert 'undertake'.

This is just a wording change to reflect the fact that licences cover activities, not simply buildings or structures.

Amendment carried; clause as amended passed.

Clauses 49 to 60 passed.

Clause 61—'Registration of environment performance agreements in relation to land.'

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

Page 48, lines 16 to 22—Leave out subclause (4).

This clause deals with the registration of environment performance agreements in relation to land. That means that they are on the title once they have been registered. Subclause (4) seeks to require an owner or occupier of the land who ceases to own or occupy the land to notify the authority in writing of the name and address of the new owner or occupier, and notify the new owner or occupier in writing of the contents of the environment performance agreement and of the fact that the agreement is binding on that person. My amendment seeks to take out subclause (4).

As to the owners of land, that function ought to be the responsibility of the Lands Titles Office. It has the mechanism for achieving that. It once used to be required of transferors that they give notice to local councils, the Land Tax Department and the Engineering and Water Supply Department of a change of ownership. All that has been superseded by the computerisation of the Lands Titles Office and a significant improvement in its procedures.

It seems to me that, rather than the authority relying on owners and occupiers—certainly in relation to owners—that ought to be done by the Lands Titles Office, and I think it can be done administratively. To place a penalty upon those owners who do not do that suggests to me that it is more likely to be honoured in the breach than in the observance. A division 6 fine is $4 000. So, failure to notify the authority if you have sold your property, even though the environment performance agreement is registered on the title, will attract a substantial fine, and I do not believe that is appropriate.

As to occupiers, sometimes they change frequently. It may involve residential or commercial premises, share farmers or a whole range of people, and it should be sufficient for the environment performance agreement to be registered and for the owner to have particular responsibilities in relation to that environment performance agreement. It should not be necessary for outgoing occupiers to notify the authority and incoming occupiers of the particular obligations. It certainly does not happen in relation to other instruments which may be registered on certificates of title, whether they be encumbrances, easements, mortgages, leases or whatever.

So, I take the view that subclause (4) is not necessary. It imposes an unnecessary burden and achieves little if anything and, as I have said, will be honoured more in the breach than in the observance. If that is going to be the case, as I anticipate it will be, I do not think it makes good law.

The Hon. ANNE LEVY: The Government opposes the amendment and supports the retention of the subclause. The agreements to which the honourable member refers are contractual arrangements that are binding on the EPA and all parties involved. These requirements can be written into the agreement so that notice of the requirement to notify will not be a surprise to people. However, notification of the EPA not just of a change of ownership but of a change of occupation is an essential requirement, and much of what the honourable member said through lands titles, and so on, can refer to owners but not to occupiers. Land titles are useless when it comes to occupiers. For any new owner or occupier it is surely essential that they know of the obligations and benefits of the agreement, and it is certainly essential that any arguments be avoided that a purchaser, a new owner or new occupier did not know of their obligations under an agreement.

The Hon. K.T. Griffin interjecting:

The Hon. ANNE LEVY: A new owner might, but a new occupier would not learn of it in the manner suggested by the honourable member, and it may be that the new occupier is going to carry out the activity on the land rather than the new owner. It can be extremely important that the new occupier is aware of all the obligations and benefits of the agreements.

It is not an onerous provision, but it is essential if we are to have smooth transitions when parties to an agreement change and people, not just new owners but new occupiers, cannot have the excuse that they were not aware of their obligations under the agreement.

The Hon. K.T. GRIFFIN: This is a bit of bizarre bureaucratic overkill. If we look at the definition of 'occupier', in relation to a place, it includes a licensee and the holder of any right at law to use or carry on operations at the place.

The Hon. Anne Levy: 'Includes'.

The Hon. K.T. GRIFFIN: That is right, but it does not limit it; it broadens it. That means, for example, that if you have a place with a number of occupiers, a number of people who have licences to carry on operations at the place (maybe the Brickworks Market, maybe the East End Market) will come within the definition of 'occupier'. Any new owner will have to give notice of any change of ownership, but any new occupier will have to give notice, even though the present owner is not obliged to give notice to the occupier or any new occupiers. It is a bizarre web of obligations that will catch a whole range of people for no other reason than that they might have the licence.

They may be transitory, weekly tenants or whatever, and they will have the full force of the law brought to bear if they do not communicate to the next stallholder that there is an environment performance agreement registered on the title and what the obligations under the environment protection performance agreement might be.

The Hon. M.J. ELLIOTT: I can see the value in 61(4)(a), which requires the owner or occupier to notify the authority of a new owner or occupier. It is really notifying that they are about to leave and someone else is taking over. But I wonder whether, having done that, the notification going to the new owner or occupier, 61(4)(b), should be not an obligation on the former owner or occupier but should then become an obligation of the EPA itself. It would probably be very difficult to prove whether or not the original owner or occupier had carried out that second obligation, but there is a fine attached to it and, at the end of the day, the major concern of the authority is that the new owner or occupier is made aware.

Ultimately, the obligation on the original owner or occupier should be to notify the authority that they are leaving. It should then become the authority's obligation to notify the new owner or occupier of the contents of the environment performance agreement. I would support 61(4)(a) but not 61(4)(b).

The Hon. ANNE LEVY: Does the Hon. Mr Elliott wish to move an amendment to have a different (b)?

The Hon. M.J. ELLIOTT: I do not think we need (b) at all. Administratively, the EPA would then carry out the latter function. I simply want (4)(b) struck out.

The Hon. ANNE LEVY: You are moving a different (b) from that of the Hon. Mr Griffin.

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

That the words in subclause (4)(b) and the word 'and' be struck out.

The Hon. K.T. GRIFFIN: I still hold very strongly to the view that the whole of subclause (4) ought to be removed, but at least the Hon. Mr Elliott removes some of the burden. But if one examines subclause (4), an owner or occupier who ceases to own or occupy the land must notify the authority in writing of the name and address of the new owner or occupier. That does not mean that the owner has to tell an occupier that there is an environment performance agreement, but it is the owner who tells the new owner. It is the occupier who tells the new occupier. There may well be some breakdown even there.

I am not saying that the owner ought to tell the occupier, but I draw attention to the fact that this is a nightmare and you do have a situation where, if there is an environment performance agreement in relation to a property with a number of licensees, and therefore by virtue of the operation of the definition you can have a number of occupiers of different parts of a piece of land, you have this extraordinary task of ensuring that each occupier of a particular part communicates to the next person that there is an environment performance agreement, and there is a fine if that person does not undertake that responsibility. I think that the whole thing is nonsense.

The Hon. Anne Levy interjecting:

The Hon. K.T. GRIFFIN: Yes, that is right, they have to inform the authority. But they still have to remember to do it. And you have occupiers who might be there for a few weeks, perhaps a year, having to know about the provision in the Bill and then to take the trouble to write to the authority—and be fined if they do not. I think it is an unworkable proposition.

The Hon. Mr Griffin's amendment to lines 16 to 18 carried; the Hon. Mr Elliott's amendment carried; clause as amended passed.

Clauses 62 to 72 passed.

Clause 73—'Certain containers prohibited.'

The Hon. ANNE LEVY: I move:

Page 55—
Line 12—Leave out 'pressure' and insert 'pressure, or'.
After line 12—Insert the following paragraph and subclause:
(c) a plastic container of a class proscribed as prohibited containers.
(1a) The Governor may not make a regulation prescribing a class of plastic containers as prohibited containers for the purpose of paragraph (c) of the definition of prohibited container' in subsection (1) unless satisfied that an effective system of recovery, recycling, reprocessing or reuse of the containers—
(a) is not assured in advance of introduction of the containers to the market; or
(b) has not been established or maintained following the introduction of the containers to the market.

The purpose of the first amendment is to provide a power which does not currently exist for a class of plastic containers to be prohibited by regulation. The Bill certainly contains limited powers of prohibition which reflect the situation under the Beverage Container Act. I am sure it will not be news to many members that there have been discussions for quite some time about the potential distribution of very large numbers of plastic milk containers in South Australia. It has been estimated that without this provision there could be up to 40 million such containers per year. The experience in other States where plastic milk containers have been introduced indicates that there are great problems with the plastics industry providing suitable recycling facilities. Even though plastic milk containers are covered by current container deposit and refund requirements, unless there are facilities available for recovering and recycling and unless there are guarantees from the industry that it can and will recycle them, the Government considers the introduction of plastic milk containers to be most undesirable.

That is what the amendment is attempting to do. While the Government hopes that industry arrangements will be able to resolve this potential problem, the amendment that I am moving will ensure that appropriate action can be taken to prevent an environmental problem arising. In other words, the Government will be able to proscribe plastic milk containers and it will have the power to do so unless it is satisfied that either an effective system for both recovery and recycling, reprocessing or reusing of the containers is in existence or is convinced that it will be so available. I for one, and I am sure many other people, would cringe at the thought of our waste deposit landfill systems having to cope with something like 40 million plastic milk containers a year and, while this amendment will not prohibit them, it will mean that there is power to prohibit them if we are not satisfied that there is a reasonable process for recovery and reuse or recycling or processing—not just theoretically but actually in practice.

The Hon. M.J. ELLIOTT: The Democrats support the amendment. I might ask why the Government has not perhaps considered also allowing by regulation to proscribe other kinds of containers. The packaging industry has the capacity to introduce new forms of packaging and get them on the market quite rapidly. I am not sure whether or not there may be some value in considering allowing us to proscribe other containers as well. I have heard the plastic can mentioned. I have not seen them but I have heard of them, and perhaps this latest amendment might actually pick them up; but there may be some other form of packaging which we find highly undesirable for reasons such as difficulty to recycle—some mixed material packaging for instance. I would like to believe that we are in a position to react quickly if something undesirable looks like coming onto the market.

The Hon. ANNE LEVY: As I understand it, that will be feasible through environment protection policies, to proscribe certain packaging of various types. The reason this particular one has been treated a bit differently is because of the imminent danger of plastic milk bottles. It is felt that, in view of the time which will be required to set up the EPA and get its whole procedure functioning, this is not one that we want to risk in this particular case.

The Hon. M.J. ELLIOTT: There is no other container type on the horizon that causes similar concern?

The Hon. ANNE LEVY: Not that we are aware of and certainly not of that magnitude.

The Hon. DIANA LAIDLAW: The Liberal Party supports this amendment. Our main concerns have been echoed by the Hon. Mr Elliott. Our general concern has been about the lack of progress that has been made despite a lot of rhetoric over the past three or four years from this Government in terms of kerbside collection projects and programs, and the lack of progress that has been made in creating markets for recycled products.

The Hon. Anne Levy interjecting:

The Hon. DIANA LAIDLAW: Well, it is local government when it is convenient for your Government, but it is your Government when it is convenient to make grand statements of what you are going to achieve. I recall such statements—

The Hon. M.J. Elliott: Before the last election.

The Hon. DIANA LAIDLAW: Yes, before the last election and from an earlier Minister for Environment and Planning, the Hon. Susan Lenehan. Almost single-handedly

this Minister was going to change the world in terms of recycling and we were going to have the world's best practices. However, we are far from that situation and it is interesting that, because we are so far from it, that is now local government's worry and not the Government's. It was an interesting interjection from the Minister; but it just reinforces our concern that there has been such a lack of Government progress and coordination in terms of kerbside recycling and in opening markets for recycled products. I do want to take this opportunity to read into *Hansard* a letter that was sent to the Hon. Kym Mayes by the Association of Liquidpaperboard Carton Manufacturers Inc. It was sent on 17 September, following comments made by Mr Mayes, when he was speaking on this issue of these milk containers, about the relationship between 'Mothers Opposing Pollution' and the association in question. It reads:

> On behalf of the member companies of the Association of Liquidpaperboard Carton Manufacturers Inc. (ALC), I wish to record our deep concern and strong objections to your public statement on Radio 5AN about the alleged connection between Mothers Opposing Pollution (MOP) and this Association (ALC). We regard your statements as damaging to the good reputation of our member companies in the public arena.
>
> We again strongly affirm that there is no connection between the ALC and MOP. In particular, we categorically deny that the ALC has provided financial support for MOP, as suggested by you in interviews with Julia Lester on Radio 5AN on Wednesday 15 September 1993 (at 11.20 a.m.) and again on Thursday 16 September 1993 (at 10.55 a.m.).
>
> We request that you cease making these damaging, unsubstantiated and untrue statements about the ALC and its alleged connections with MOP. Furthermore, we request a public retraction of these allegations which you have made in public.
>
> ALC is an incorporated body and we view this matter with such concern that we have submitted transcripts of the above interviews to our solicitors for their advice on further options available to us, if the above allegations are not retracted.

The letter was signed by the Executive Director of the company, Arpad T. Phillip. A copy was sent to the Premier and to the Leader of the Opposition.

Amendments carried; clause as amended passed.

Clauses 74 to 86 passed.

Clause 87—'Identification of authorised officers.'

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

> Page 61, lines 26 and 27—Leave out "at the request of a person in relation to whom the authorised officer intends to exercise any powers under this Act" and insert "before exercising any powers of an authorised officer under this Act in relation to a person".

Clause 87 deals with the identification of authorised officers. On a number of Bills previously I have made the point that I do not think that it is satisfactory for an authorised officer merely to be required to produce his or her authority only when requested. I think it is preferable (and Parliament has passed such amendments to other Bills in the past) for the authorised officer to be required to produce his or her authority up front. So that when the authorised officer meets a citizen it is the obligation of the authorised officer to produce the authority by which that authorised officer operates.

It is, I would suggest, quite intimidating for members of the community when they are confronted with authorised officers, whether under this legislation or other legislation, to have to think about whether or not they should ask for the authorised officer to produce his or her authority. That is the reason why the authorised officer, who is in a stronger position, ought to be required to produce the authority up front before proceeding with the tasks which the authorised officer is proposing to undertake. My amendment is to require the production of the authority up front.

The Hon. ANNE LEVY: The Government opposes this amendment. Currently clause 87(3) only requires an authorised officer to produce the certificate of authority when they are requested to do so. It is true that in debate on the Development Act a different procedure was introduced in section 18 of that Act whereby authorised officers are required under that Act to present their identity card when exercising any powers as an authorised officer. The reason for retaining the different provision in this Bill is that most of the activities of authorised officers under this Bill will be exercised in relation to activities which are already licensed under the Bill.

Authorised officers under this Bill will regularly be in contact with persons who are undertaking licensed activities and it is just seen as inappropriate that a requirement be made for the production of the certificate of authority on every occasion. In fact, the usual process for a visit by an authorised officer is a telephone call to arrange a time. When meeting new operators a business card will be presented to the operator. We feel that requirements for automatic presentation of a certificate of authority can seem overly officious and bureaucratic and not really appropriate in the circumstances. I would point out that clause 87(3) as drafted is entirely consistent with all the existing environment protection Acts: the Noise Control Act, the Waste Management Act, the Water Resources Act, the Clean Air Act and the Marine Environment Protection Act. The certificate need only be produced when requested, and as far as the Government is aware in all those environmental type Acts there is no evidence that any problem has occurred with the existing system.

The Hon. K.T. GRIFFIN: I am not too worried about what is in those old Acts. It is important to recognise that authorised officers will not only be going to licensed premises but will have a wide range of powers set out in clause 88: power to inspect any place; with the authority of a warrant to use reasonable force to break into premises; to give directions; to take samples; to require the production of documents; to take photographs; to test; to seize and retain anything. A whole range of powers exist under this Bill which can be exercised in a wide range of circumstances. I am rather surprised that authorised officers who may be seeking to exercise those powers might produce only a business card, which can hardly be regarded as a certificate of authority.

Presumably the authorised officer will not be exercising any powers if he or she necessarily makes an appointment. It may be just an occasion to make the acquaintance of a particular person with whom the appointment has been made. If it gets to the point of making a formal inspection then I would have thought it does not matter that the inspector is well known or not well known to the person whose premises are to be the subject of inspection; the authorised officer should produce the authority. It is a commonsense provision. It is not, as the Minister suggested, overly bureaucratic. It is a necessary protection for those who may be the subject of the exercise of the very wide powers of the authorised officers.

The Hon. M.J. ELLIOTT: The arguments either way are relatively marginal. I am not powerfully convinced either way. I think there are some rights and wrongs on both sides. I am not convinced that the clause needs to be amended, so I shall not be supporting the amendment.

Amendment negatived; clause passed.

Clause 88—'Powers of authorised officers.'

The Hon. DIANA LAIDLAW: I have some correspondence from the South Australian Farmers Federation to an officer within the policy and planning area of the Environment Protection Authority, although I am not sure it is called that at this stage, in relation to the powers of authorised officers. The Farmers Federation notes that many intensive animal industries have strict hygiene requirements to avoid the introduction of disease. Therefore, it suggests that the EPA should as soon as possible meet commodity representatives to establish administrative protocols for authorised officers to ensure that they do not introduce disease or other contaminants to the sites that they inspect. As this correspondence is dated 17 August, I was wondering whether the Minister could confirm that such meetings have taken place with commodity representatives to determine such administrative protocols.

The Hon. ANNE LEVY: As far as I know, such meetings have not yet taken place, but it is proposed that they do so. I do not know when they will take place.

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

Page 63, after line 11—Insert subclause as follows:

(2a) An authorised officer may not exercise the power to enter or inspect a vehicle except where the authorised officer reasonably suspects that—

(a) a contravention of this Act has been, is being, or is about to be, committed in relation to the vehicle; or

(b) something may be found in or on the vehicle that has been used in, or constitutes evidence of, a contravention of this Act.

Subclause (1) provides that an authorised officer may:

(a) enter and inspect any place or vehicle for any reasonable purpose connected with the administration or enforcement of this Act.

The entry of any place is qualified by subclause (2):

An authorised officer may not exercise the power of entry under this section in respect of premises except where—

(a) the premises are business premises being used at the time in the course of business; or

(b) the authorised officer reasonably suspects that—

(i) a contravention of this Act has been, is being, or is about to be, committed in the premises; or

(ii) something may be found in the premises that has been used in, or constitutes evidence of, a contravention of this Act.

It seems to me that that adequately protects the place or the premises, and, of course, if there is to be forcible entry, there has to be a warrant. However, that does not adequately deal with the question of a motor vehicle. It seems that wherever a motor vehicle may be the authorised officer may 'enter and inspect any . . . vehicle for any reasonable purpose connected with the administration or enforcement of this Act', whatever that may mean. There does not even have to be a reasonable suspicion that an offence has been committed. I think that is an outrageously broad power to be given to an authorised officer. Even the police do not have the power to stop and inspect vehicles, other than under this legislation, unless they have a reasonable suspicion that it is being used in the commission of an offence or an offence is being committed in relation to the vehicle and for related purposes.

I want to contain the powers of authorised officers in relation to vehicles. I want to ensure that there is no power to enter or inspect a vehicle, except where there is a reasonable suspicion that:

(a) a contravention of this Act has been, is being, or is about to be, committed in relation to the vehicle; or

(b) something may be found in or on the vehicle that has been used in, or constitutes evidence of, a contravention of this Act.

I think that then ties in reasonably with subclause (2) in relation to premises and relieves the citizen from the potential for abuse by an authorised officer of his or her powers to stop and inspect a vehicle even if there is no reasonable suspicion of the matters to which I have just referred.

The Hon. ANNE LEVY: The Government opposes this amendment. As the honourable member indicated, there is a clear distinction being made between private premises and a vehicle. An authorised officer will have the power to enter private premises only if they are business premises and are being used at the time in the course of business, in other words, during business hours. The officer would not have the right to enter other premises, including private premises.

The situation with vehicles is a different matter. For an authorised officer or for the police to have to get a warrant in order to inspect a vehicle would seem unreasonable. If we consider, for example, waste transport vehicles, it is most important to ensure that they are in compliance with the appropriate regulations for whatever waste they may happen to be transporting. For safety reasons and a whole lot of other reasons, the best way of compliance is to give authorised officers the power to stop the vehicle and just have a look and make sure that it is complying with whatever conditions are appropriate for the particular waste which it is transporting. Not to do so could result in hazardous conditions for the public.

For an authorised officer to have to have reason to suspect that conditions are not being complied with could lead to a lot of dangerous situations. There are waste vehicles transporting waste around with no particular indication of what they are carrying or where they are going, and it is desirable that an authorised officer have the power to stop them, to see just what waste they are carrying and to see whether they are complying with the conditions which apply to that particular waste, without having first to suspect that they are not complying with conditions when you do not even know what particular waste it is they are transporting. I certainly appreciate the questions of civil liberty which the honourable member is raising, but I think the Government is appreciative of that in making a very clear distinction between the rights of authorised officers to enter private premises and their right to stop and inspect vehicles.

The Hon. K.T. GRIFFIN: As I understand it, waste disposal vehicles are licensed. It may well be a condition of the licence that it has to conform to particular standards.

The Hon. Anne Levy interjecting:

The Hon. K.T. GRIFFIN: You are not just dealing with waste disposal vehicles: you are dealing with every vehicle on the road in South Australia. You are giving an authorised officer power to enter and inspect any place or vehicle. You are not talking about waste disposal vehicles. If you want to talk about waste—

The Hon. Anne Levy: For reasonable purposes.

The Hon. K.T. GRIFFIN: Who knows? The poor citizen might be pulled over to the side of the road by an authorised officer. For example, Mr Gunn, the member for Eyre, has had innumerable difficulties with transport inspectors in the far north of South Australia. He regards many of them as akin to acting like the Gestapo. I tell you there are major problems in some of those areas. What we do not want to have is authorised officers pulling over any citizen, even if they are driving panel vans or sedan cars, for any reasonable purpose.

They can manufacture any reason they like under this Bill—and it is broad enough to do that—to enable them to justify pulling over the citizen. That is outrageous. If the

Minister wants to give an authorised officer the power to pull over a vehicle such as a waste disposal vehicle, he should say so, but he should not extend it to every vehicle, as this Bill presently does. If the Minister wants to come back with a proposition, I am willing to consider it if it is to be limited, but at the moment it is broad and it extends to every vehicle in the community. I think that is an outrageous grant of power to authorised officers. I suggest that the amendment be carried. If the Minister wants to come back, we can recommit it later.

The Hon. M.J. ELLIOTT: I think that the truth probably lies somewhere between the two positions that we currently have. There are a number of occasions, particularly in relation to this Bill, when I actually disagree with what both Parties are doing.

An honourable member interjecting:

The Hon. M.J. ELLIOTT: This place functioned a lot better when you were not here, and if you wish to leave, feel free to do so right now. I understand the arguments that the Hon. Mr Griffin has put in terms of civil liberties. I do not think there is any real history in relation to officers under previous Acts causing any particular difficulties. It certainly is true that under the Road Transport Act vehicles can be pulled over, but you do not have to believe that an offence to weigh them. That is simply a spot check, and you do not have to believe that an offence has been committed. You stop and weigh them and you then determine whether or not an offence has been committed. It is a totally random process. It just underlines the point I was making: in fact, I think the truth lies somewhere in the middle.

The amendment that has been drawn up is not acceptable, because you will want to stop trucks but you do not know that an offence has been committed. Spot checks for particular vehicles are necessary, and waste vehicles are an obvious example of this. It appears to me that we may be recommitting clauses, so if the Hon. Mr Griffin has an alternative amendment there might be a chance to look at it at that stage.

The Committee divided on the amendment:

AYES (8)

Davis, L. H.	Dunn, H. P. K.
Griffin, K .T. (teller)	Irwin, J. C.
Laidlaw, D. V.	Lucas, R. I.
Schaefer, C. V.	Stefani, J. F.

NOES (9)

Crothers, T.	Elliott, M. J.
Gilfillan, I.	Levy, J. A. W. (teller)
Pickles, C. A.	Roberts, R. R.
Roberts, T. G.	Weatherill, G.
Wiese, B. J.	

PAIRS

Burdett, J. C.	Feleppa, M. S.
Pfitzner, B. S. L.	Sumner, C. J.

Majority of 1 for the Noes.

Amendment thus negatived.

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

Page 63, after line 29—Insert new subclause as follows:

(6) Where a person gives assistance to an authorised officer as required under subsection (5), the person must, if he or she so requires, be reimbursed by the authorised officer or the authority for any reasonable costs and expenses incurred in giving the assistance.

Under subclause (5), an authorised officer may require an occupier of any place or a person apparently in charge of any plant, equipment, vehicle or other thing to give to the authorised officer or a person assisting the authorised officer such assistance as is reasonably required by the authorised officer for the effective exercise of powers conferred by this Act. That is always a matter of judgment.

However, in other legislation we have had situations where a person must give reasonable assistance, and we have inserted specifically a provision such as that which I now seek to have inserted where if, for example, the officer requires the fax machine, the photocopier or the other plant to be used to assist the authorised officer, the authority must reimburse the reasonable costs and expenses of that. It would be quite untenable for the authorised officer to impose upon the person or body the obligation to provide access to fax, telephone and photocopying facilities, for example, without there being some reasonable expectation that the cost will be recovered. As I said, it has been included in other legislation.

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

Amendment carried; clause as amended passed.

Clauses 89 to 94 passed.

Clause 95—'Registration of environment protection orders in relation to land.'

The Hon. ANNE LEVY: Mr Chairman, I seek your guidance or that of the Hon. Mr Griffin. I am advised by Parliamentary Counsel that, as the amendment to clause 3 in terms of the definition of 'an occupier' has been successful, it would be preferable to remove it from clause 3 and insert it into clauses 95 and 102, as these are the appropriate clauses in which this operates. I am assured by Parliamentary Counsel that this will achieve what the Hon. Mr Griffin intends but in a more appropriate manner for the Bill. In other words, we would have to recommit the Bill to remove the previously agreed amendment to clause 3 and insert it as a definition in clauses 95 and 102. If the Hon. Mr Griffin would like time to think about this matter, we will have to recommit the Bill, anyway, in order to deal with clause 3, and we could deal with clauses 95 and 102 at the same time.

The Hon. K.T. Griffin interjecting:

The Hon. ANNE LEVY: I am happy to do that. I flag this matter at this stage, but I will not move it at the moment so that Mr Griffin can consider it.

The Hon. K.T. Griffin interjecting:

The Hon. ANNE LEVY: If the honourable member would like, but we would have to recommit the Bill, anyway, in order to deal with clause 3.

The Hon. K.T. GRIFFIN: I am happy to accept the Minister's indication that the matter will be recommitted. I do need time to consider this matter. On the face of it, it looks satisfactory, but I need a little time. If we recommit it, that will be the best way to deal with it.

Clause passed.

Clause 96—'Action on non-compliance with environment protection order.'

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

Page 72, lines 5 to 7—Leave out paragraph (d) and insert new paragraph as follows:

(d) the person must produce the instrument of authority for the inspection of any person in relation to whom the person intends to exercise powers of an authorised officer.

This amendment requires a person other than an authorised officer to take action to produce evidence of authority.

The Hon. ANNE LEVY: I am happy to accept this amendment. This situation is different from the previous one. An authorised person probably would not be known and may not have the experience and training of an authorised officer, so in these circumstances it seems to be completely reasonable.

Amendment carried; clause as amended passed.

Clause 97 passed.

Clause 98—'Obtaining of information on non-compliance with order or condition of environmental authorisation.'

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

Page 74, lines 1 to 3—leave out paragraph (d) and insert new paragraph as follows:

(d) the person must produce the instrument of authority for the inspection of any person in relation to whom the person intends to exercise powers of an authorised officer.

This amendment is similar in effect to the amendment that has been carried in relation to clause 96.

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

Amendment carried; clause as amended passed.

Clauses 99 to 102 passed.

Clause 103—'Action on non-compliance with clean-up order.'

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

Page 78, lines 31 to 33—Leave out paragraph (d) and insert new paragraph as follows:

(d) the person must produce the instrument of authority for the inspection of any person in relation to whom the person intends to exercise powers of an authorised officer.

This is similar in effect to the amendments moved and carried to clauses 96 and 98.

The Hon. ANNE LEVY: We accept the amendment.

Amendment carried; clause as amended passed.

Clause 104 passed.

Clause 105—'Civil remedies.'

The Hon. DIANA LAIDLAW: I move:

Page 81, line 24—After 'Court' insert 'in respect of an application made under subsection (7)(a) or (b)'.

I am arguing here that the power to order payment of an amount in the nature of exemplary damages may only be exercised by a judge of the court in relation to applications made by the authority or by people who have sought and been granted leave to be heard before the court. So, in a sense it is consequential on what I am trying to seek in terms of widening (7)(b) and the leave provisions, but it relates simply to a part order payment for exemplary damages.

The Hon. ANNE LEVY: The Government opposes this first amendment, although we will be happy to accept the Hon. Ms Laidlaw's other amendment to clause 105. To us they are not linked at all and one lot seems perfectly reasonable and the other not. This amendment states:

The power to order payment of an amount in the nature of exemplary damages may only be exercised by a judge of the court.

Subclause (7) deals only with the question of who has standing to take action in the court, and if the Bill provided that exemplary damages were to be paid to the person who initiated the action or was affected by the behaviour calling for exemplary damages to be imposed, then consideration of limiting classes of people where awarding of the exemplary damages was allowed might be appropriate. However, clause 105(1)(f) provides:

If the court considers it appropriate to do so, an order against a person who has contravened this Act for payment (for the credit of the Consolidated Account) of an amount in the nature of exemplary damages determined by the Court;

It provides that exemplary damages are to be paid into Consolidated Account. Given that the power to award exemplary damages would only be used in very rare circumstances and must be exercised by a judge, there is no need whatsoever for the amendment limiting it to paragraphs (a) and (b) of subclause (7). Elsewhere in the clause it is put that exemplary damages can only be awarded by a judge and they are paid into Consolidated Account. So the Hon. Ms Laidlaw's amendment is quite unnecessary.

Amendment negatived.

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

Page 81, lines 28 to 32—Leave out subclause (7) and insert—

(7) An application under this section may be made—

(a) by the Authority; or

(b) by any person whose interests are affected by the subject matter of the application; or

(c) in the case of an application for an order under subsection (1)(a), (b) or (c)—by any person.

This amendment, which relates to civil enforcement, will enable an application for an order under paragraphs (a), (b) or (c) of subclause (1) to be brought by any person. There are ample safeguards against abuse of the right to bringing civil enforcement proceedings provided elsewhere in this Bill and in the ERD Court Act 1993, and with those safeguards it is something which cannot be abused. I believe that we should have the right of civil enforcement in this legislation.

The Hon. DIANA LAIDLAW: I move:

Page 81, lines 30 to 32—Leave out paragraph (b) and insert—

(b) by any person whose interests are affected by the subject matter of the application; or

(c) by any other person with the leave of the Court.

(7a) Before the Court may grant leave for the purposes of subsection (7) (c), the Court must be satisfied that—

(a) the proceedings on the application would not be an abuse of the process of the court; and

(b) there is a real or significant likelihood that the requirements for the making of an order under subsection (1) on the application would be satisfied; and

(c) it is in the public interest that the proceedings should be brought.

I understand from statements made by the Minister earlier that she is prepared to accept this amendment. It does allow civil enforcement proceedings to be brought before the Environment, Resources and Development Court. The proceedings can be brought by any person subject to conditions, and those conditions are the same as apply in the New South Wales Land and Environment Court. We have had considerable discussions with the Chamber of Commerce and Industry about this amendment. There has been much toing-and-froing and great concern by some in the Chamber that this was over the top, but the Liberal Party has persisted with this amendment.

The Hon. M.J. Elliott interjecting:

The Hon. DIANA LAIDLAW: I just find it very interesting that the Government is prepared to consider and support this amendment, considering how agitated it made some people in the Chamber of Commerce and Industry. I will not go into that further because the Government is now supporting it, but I think that the Government or those representing the Government in much of the negotiations of this Bill should look at their role in presenting this Bill and in their negotiations with various parties in this State, because I think it has been quite questionable. I think that those who have spoken in the past will be interested to see that the Government is now prepared to support this most reasonable amendment, considering the unnecessary degree to which it stirred up people in the Chamber in the first place. I think it is also interesting to realise how far the Government has moved in this matter. I know the amendment in my name varies from the one moved in the House of Assembly some weeks ago, but at that time the Minister in the other place said, and it is again worth putting this in *Hansard*:

For me to concede to such an amendment at this point would mean throwing out the whole package.

This is very important because we have an arrangement that we are putting in place with the support of industry, and we need its support. . . If I accepted what the member for Heysen proposes, it would throw out the package and the confidence that my officers and I have built up in our negotiations with industry in this State. It creates a degree of uncertainty that I have never seen before.

In negotiations with the Chamber, we did modify that amendment and I am pleased that we do not have such an hysterical response in this place now as we did in the other place some weeks ago, to the extent that the Minister was threatening to throw out the whole Bill. With that hysterical response from the Minister it was not surprising that the people in the Chamber of Commerce and Industry got a bit agitated as well. I am pleased to accept and acknowledge with good grace the Minister's support for this amendment.

The Hon. ANNE LEVY: As I indicated previously, I oppose the amendment moved by the Hon. Mr Elliott and support that moved by the Hon. Ms Laidlaw, which, I am told, is very different from the way it was moved by the Opposition in the other place. I make that comment because it is relevant to her later, fairly waspish remarks. But certainly the Government feels that the third party rights which are included in this amendment are within very carefully defined boundaries. There are explicit guidelines to the court as to how to exercise its discretion and, as such, it is to be preferred to the open-ended and much wider provision proposed by the Hon. Mr Elliott.

The Hon. Mr Elliott's amendment negatived; the Hon. Ms Laidlaw's amendment carried.

The Hon. ANNE LEVY: I move:

Page 83, after line 22—Insert subclause as follows:

(21) The court may, in any proceedings under this section, make such orders in relation to the costs of the proceedings as it thinks just and reasonable.

The National Environment Law Association has pointed out that there are specific provisions in the Bill allowing for payment of respondents' costs in civil proceedings and the ERD Court should also have power to award costs to a successful applicant in a civil matter. This amendment merely ensures that the usual discretion of a court to award costs is provided. We do not need, of course, to provide for costs in criminal proceedings, because that already exists under section 7 of the ERD Court Act, which incorporates the relevant provisions of the Summary Procedure Act.

Amendment carried; clause as amended passed.

Clause 106 passed.

Clause 107—'Appeals to Court.'

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

Page 85, lines 6 to 22—Leave out paragraphs (a), (b) and (c) and insert—

(a) any person (whether or not being a person whose interests are affected by the decision) may appeal—

(i) against a decision of the authority on an application for an environmental authorisation; or

(ii) against a decision of the authority on an application for development authorisation referred to the authority under the Development Act 1993;

(iii) against any decision of the authority made in relation to an environmental authorisation;.

The question of third party appeal rights is a matter of fundamental concern. Difficulty has been created by the Government's insistence that the matter should be addressed through the Development Act and not through clause 107 of the Environment Protection Bill. A situation of almost farcical proportions in terms of the legal complexities involved has now been reached. More importantly, the Government accepts that it has failed to provide what it promised in the explanatory material accompanying the Bill and in what the Minister indicated in the House; that is, third party appeal rights far all new development proposals involving prescribed activities of environmental significance. In speaking in the other place the Minister said (*Hansard*, 18 August 1993):

Section 38(2)(b) of the Development Act provides that category 3 developments which are to be the subject of public notice and potential third party appeals will be any development other than those assigned to category 1 or 2. I expect that most, if not all, of the schedule of this Bill will refer to category 3 developments.

That is the Minister speaking in the other House.

The Hon. Diana Laidlaw: What is the true situation?

The Hon. M.J. ELLIOTT: It is very different from that. Legal advice from senior members of the legal profession with considerable expertise in planning law suggests that the Minister is fundamentally mistaken in expressing the above view. Third party appeal rights may not be available in relation to a very wide range of matters requiring referral to the EPA, and a quite detailed explanation is given. But the fact is that the Minister made a claim in the Lower House and legal advice from senior planning lawyers is that that simply is not so. My amendment seeks to ensure that what the Minister said in the Lower House would happen will in fact happen. So by moving this amendment I am really only upholding the Minister's intentions.

The Hon. ANNE LEVY: The Government opposes the Hon. Mr Elliott's amendment. The changes proposed in his amendment cover three different extensions of appeal rights compared to what is in the existing Bill. The first major extension of appeal rights allows third parties who disagree with any decision of the EPA affecting the environmental authorisation to have an appeal right. The second extension allows applicants who are dissatisfied with the decision by the EPA relating to an application for an extension to have an appeal right. The third extension proposed allows persons other than applicants to have a right of appeal against a decision the EPA made in relation to a development application referred to the authority under the Development Act.

Considerable discussion took place about the situation which applies with regard to appeals, both under the Development Act and under this Bill, in the debate on the second reading. I indicated the Government's position in my speech which closed the second reading debate. The main points were that the Government recognises that changes needed to be made to the Development Act to ensure that matters relevant to EPA decisions on a referral under the Development Act and development regulations could be argued at the stage at which an appeal was considered by the ERD Court under the Development Act. The specific changes to ensure that the Development Act allows this are covered in amendments to section 38(6) and section 86(1)(b) of the Development Act which are on file as amendments to schedule 2 of this Bill: specifically, clauses 3A(b) and 3A(h) of the amendments proposed to schedule 2.

These amendments will ensure that a third party appeal under the Development Act can deal with matters relevant to EPA directions on a Development Act referral. As has been specified in clause 58 of this Bill, these include the objects of this Bill, the general environmental duty under this Bill and the relevant environment protection policies.

The important point is that the Government will provide, with these amendments to schedule 2, a single system of third

party appeals, and those appeals occur at development authorisation stage. They can cover all relevant aspects of the matter, including EPA environmental protection issues. Once again, a high degree of certainty is assured for environmentally sound development. There are limitations on third party appeal rights under the Development Act, with such rights applying only to what are known as category three developments. Such developments are publicly advertised, and third parties who make representations can appeal against decisions. The development regulations will specify category one, two and three developments, and these can be varied in development plans.

Consideration of the draft development regulations is proceeding by a process of public consultation at present, and these development regulations will shortly be before the Parliament for consideration. Similarly, provisions of development plans and amendments to those plans which affect the categorisation of developments in particular zones also involve a process of public consultation and consideration by Parliament.

It is the Government's position that it is appropriate that the Development Act, the development regulations and development plans are the guiding criteria as to when third party appeals will arise as a result of developments being in category three. To do otherwise would undermine the certainty which is intended to be provided by the planning and zoning system under the Development Act.

The Government is opposed to each of the three aspects of the proposed extension of appeal rights, which are provided for in the amendment of the Hon. Mr Elliott. The result of passing this amendment is unlikely to have significant benefits in terms of protection of the environment, but it is certain to add considerably to the degree of uncertainty, especially when this Bill comes into operation, and with regard to the administrative and legal costs which can be expected to follow from extended appeal rights. We oppose the amendments and have foreshadowed amendments to the schedule which will deal with appeal rights.

The Hon. M.J. ELLIOTT: The Minister appears to have skirted around the fact that the Minister in another place made particular comments which were clearly wrong. The Minister has ducked that, and I ask the Minister to explain why the Minister in the other place—

The Hon. Anne Levy: I explained that in my second reading contribution.

The Hon. M.J. ELLIOTT: I am attempting to ensure that there is public notification in relation to prescribed activities of environmental significance. It is quite clear that there will be matters which are considered to be activities of environmental significance and which will not be required to be publicly notified. I do not see what justification the Minister puts up for that. It is not just a question of third party appeals. If the matter is prescribed as being of such importance, public notification is an absolute minimum and third party appeal rights in matters of such importance are not unreasonable.

The Hon. DIANA LAIDLAW: Taking up the issue raised by the Hon. Mr Elliott, I ask the Minister to confirm whether she expects that (quoting the Minister in the other place) 'most, if not all, of the schedule of this Bill will refer to category three developments'.

The Hon. ANNE LEVY: In my second reading explanation and in my speech to close the second reading debate I indicated that category three is not expected to take a large part of the schedules. I said as much on two occasions. I also indicated that the Minister in the other place had been wrongly advised in making the statement which he did and that I was correcting that statement, which I did twice in the second reading debate.

The Hon. DIANA LAIDLAW: It is important that it has been re-emphasised in this clause in relation to appeals rather than in general debate. That is why I asked the question. Can the Minister indicate what developments in the schedule would be included as category 3 developments?

The Hon. ANNE LEVY: What will fall into category 3 will be determined by the Development Act regulations. Draft regulations are currently available and out for discussion. Until they are finalised we cannot say exactly what the definition will be. Unless there are wild objections, I imagine that what is currently in the draft regulations is likely to define the matter, but, as they are only draft regulations, they may change before they are finalised.

The Hon. DIANA LAIDLAW: I hope that they will change from the current form if the Government is anticipating getting these regulations through this place. I put the Minister on notice about that because the Government has treated this issue of categories, appeals and people's rights as a moving feast. It is quite unacceptable. When this matter was first raised in the other place the Minister said, 'I expect that most, if not all, of the schedule of this Bill will refer to category 3 developments.' Now we have the Minister in this place indicating that the Government had been badly advised and that is not the case. We do not know what will be deemed to be a category 3 development because it will be left to the regulations under the Development Act.

It is important to recognise under the Development Act how this is also a moving feast between various drafts of regulations. Category 2 in a draft of a few weeks ago provides in (h) that there be notice to owners and occupiers, but no press notice or public advertising, that there be light industry and motor repair stations in industry, light industry and general industry zones as delineated in the development plan, and (i) is general industry zones as delineated in the development plan. However, the latest draft has both of those matters reclassified as category 1 developments, which means that there is no press notice and no advertising to owners and occupiers.

It is extraordinary that this Government, in terms of certainty, is presuming so much in terms of what ratepayers will bear when they are not being provided with public notice or a notice to occupiers and owners of what development may go on in that area. I feel quite sick about this, although I will not use the word 'sick' again as I did earlier in the debate.

The Hon. Anne Levy interjecting:

The Hon. DIANA LAIDLAW: Well, I do feel sick about this arising from the issue of tourism zones about which the Government moved regulations last year. There was a motion by the Australian Democrats to disallow that, and while I personally supported that disallowance my Party did not at the time, and I had to present the Party view.

The Hon. Anne Levy interjecting:

The Hon. DIANA LAIDLAW: No, there is not disunity. There is certainly diversity of views. My Party did not realise how despicable this Government is in terms of this whole development debate and this Environment Protection Bill. It is shifting ground; it has not only been misinformed but you could also argue that it has been lying about what has been going on here. You just wonder what its regard is for people in the community, those who have invested in property and those who today will not even be advised, if these draft regulations go through, of what can go up next to their

property in terms of light industry or general industry, because it is a moving feast. My Party does not want to accept the Democrat amendment in relation to the third party appeals, but I am certainly authorised to say that the Government should have no confidence that we would be supporting the regulations to the Development Bill as they now are in draft form.

The Hon. M.J. ELLIOTT: It is worth noting, as we have just heard draft regulations read out, that, in the case of *Scott v. the District Council of Port Elliot and Goolwa, and Walter and Judd*, a plant for the processing of sheepskins was defined to be general industry rather than special industry, and in the case of *Powell v. South Australian Planning Commission and Waste Management Services Pty Limited*, that an incinerator was deemed to be light industry. It gives an idea of the sorts of industries that could be set up and there would not even need to be any public notification that those industries were being considered by the EPA.

All my amendment is doing is requiring that, where industry needs to be referred to the EPA for its assessment (in other words, that it is an industry which is of some environmental significance), at least the public should be informed. I go a step further and also say that, in such circumstances, third party appeal rights should exist. As things stand now, there will be neither public notification nor will there be third party appeals. The Liberal Party needs to realise they are knocking both of those out in the rejection of my amendments.

I understand that certain members of the Minister's advisory group scurried around and scared the heck out of business unnecessarily, and I must say I am surprised that a Government, which pretends to be environmentally conscious and aware, for most of this year did not inform environmental groups as to what it was doing. They did not see drafts of the legislation for some time. It was only when the legislation was about to be introduced that environmental groups saw environmental legislation. Then when there are some amendments which seek to give the public what are only reasonable rights, what did the Minister's advisers do then? They went scurrying around stirring up the industry unnecessarily.

That quite clearly underlines that this EPA Bill is largely a smokescreen and probably should not comply with its own Act. This EPA Act that we will end up with will be the weakest Act in Australia by far, an Act which has been undermined by its own architects in a way which is almost impossible to fathom. I had believed at one stage that the Liberal Party would have supported the rights of individuals, which I thought was something which one would expect in Liberal policy.

I am absolutely staggered that it was the Labor Party that went around and stirred up the groups and put the pressure on the Liberal Party that ended up with their going weak at the knees. This is an unfortunate event and, following so closely on what happened with the Development Bill, we have seen the most disappointing pieces of legislation coming in relatively quick succession. I only hope that history takes note of the part that certain people played in this. It is a pity that the architects of this legislation do not have their names printed in the Act for future reference.

Amendment negatived; clause passed.

Clauses 108 and 109 passed.

Clause 110—'Public register.'

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

Page 87, after line 33—Insert subclause as follows:

(3a) The authority must ensure that information required to be recorded in the register is recorded in the register as soon as practicable, but, in any event, within three months, after the information becomes available to the Authority.

I am seeking to put a time limit in relation to the register. I have provided 'as soon as practicable', but in any event the entry should be made in the register within three months. I do not believe that is an unreasonable time period.

The Hon. ANNE LEVY: The Government does not really oppose this amendment but considers it quite unnecessary. Situations such as this are covered by the Acts Interpretation Act which provides that, where no time is prescribed or allowed within which anything must be done, the thing must be done with all convenient speed and as often as the prescribed occasion arises. One would expect that, in the vast majority of cases, matters would be recorded in a public register within a few days. In some cases there might be details of prosecution and enforcement action, for example, and the information might not appear in the register immediately, but even in these cases, once the stage is reached at which it is appropriate that the information be recorded in the public register, there is no reason why that should be delayed more than a few days—certainly not three months. The EPA will have the appropriate requirement provided under the Acts Interpretation Act. I will not oppose the amendment, but it seems totally superfluous.

The Hon. DIANA LAIDLAW: The Liberal Party will support the amendment. I understand there are registers, at least in relation to some Bills.

The Hon. ANNE LEVY: Yes.

The Hon. DIANA LAIDLAW: Have any delays been experienced in noting things on registers?

The Hon. ANNE LEVY: I am informed that we are not aware of any delays that have occurred; entries are done by computer. I am saying not that there have never been any delays but that I am not aware of any.

Amendment carried; clause as amended passed.

Clauses 111 to 114 passed.

Clause 115—'Waste facilities operated by authority.'

The Hon. K.T. GRIFFIN: In relation to the approval of the authority carrying on operations for the collection, storage, treatment and disposal of domestic and rural waste chemicals and containers, will the Minister indicate what may be the intention of the Government in relation to authorising the authority to carry on operations? What operations are likely to be approved?

The Hon. ANNE LEVY: The Government is certainly of the view that it is really not appropriate for the authority to operate waste facilities. But there can be situations such as those which exist at the moment where the Waste Management Commission operates a facility at Dry Creek where it collects empty containers of weedicide, pesticide and various other nasties, and no-one else is prepared to do so. So until arrangements can be made for a private organisation to do so, it is preferable that the authority operate such a waste facility rather than not have it operated.

The Hon. K.T. GRIFFIN: But that is the only one.

The Hon. ANNE LEVY: It is the only one at the moment. Similar situations might arise in the future, but it is certainly not intended to do something unless no-one else is prepared to do so.

Clause passed.

Clauses 116 to 140 passed.

Progress reported; Committee to sit again.

ADJOURNMENT

At 12.1 a.m. the Council adjourned until Thursday 7 October at 2.15 pm.