LEGISLATIVE COUNCIL

Thursday 7 October 1993

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

ASSENT TO BILLS

Her Excellency the Governor, by message, intimated her assent to the following Bills:

Employment Agents Registration,

Mutual Recognition (South Australia),

State Bank of South Australia (Investigator's Records and Preparation for Restructuring) Amendment,

Supply (No. 2),

Tobacco Products Control (Miscellaneous) Amendment.

CITIZENS INITIATED REFERENDA

A petition signed by 844 residents of South Australia praying that the Legislative Council would call upon the Government to hold a referendum, in conjunction with the impending State election, to determine the will of all South Australians in this matter, was presented by the Hon. R.I. Lucas.

Petition received.

DECORSO, Mr JOHN

A petition signed by 969 residents of South Australia concerning the plight of Mr John DeCorso and family following damage to their Campbelltown home caused by a burst E&WS water main and praying that the Legislative Council would promptly consider this awful state of affairs and bring it to a satisfactory conclusion—that is, the E&WS pay in full to Mr DeCorso and his family the cost of rebuilding and furnishing a home to the standard of the one which was almost demolished—was presented by the Hon. J.F. Stefani.

Petition received.

PAPER TABLED

The following paper was laid on the table:

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

Corporation of Port Lincoln—By-law No. 26—Bathing and Controlling the Foreshore.

LEGISLATIVE REVIEW COMMITTEE

The Hon. M.S. FELEPPA: I bring up the 15th report of the Legislative Review Committee.

QUESTION TIME

ARTS DEPARTMENT DIRECTOR

The Hon. R.I. LUCAS: I seek leave to make an explanation before asking the Minister for the Arts and Cultural Heritage a question about the Director of the Department for the Arts and Cultural Heritage.

Leave granted.

The Hon. R.I. LUCAS: Late last year the Minister of Education, Ms Lenehan, took a decision to remove the then Director-General of Education, Dr Eric Willmot, and replace him with Dr Ian McPhail. Dr Willmot was then given the job as Director of the Department for the Arts and Cultural Heritage. The Liberal Party has been advised that Dr Willmot was obviously unhappy about the decision and that as a condition of his going from the Education Department he insisted that he take two staff positions with him to the Arts portfolio and that the Education Department continue to fund those positions.

Considerable concern has been expressed within the Education Department about its continuing to fund these positions for the Arts portfolio at a time when the Labor Government has slashed up to 1 500 teaching positions from schools. My questions to the Minister are:

1. Was the Minister aware of these arrangements when Dr Willmot was made Director of her department, and what justification was there for such an extraordinary arrangement?

2. Will the Minister provide detail on the staff involved, their positions, salary levels and the length of the period for which their salary was paid by the Education Department?

The Hon. ANNE LEVY: The sequence of events as indicated by the honourable member is not quite as I would have put it. As all members know, there was considerable reorganisation of the Public Service about 12 months ago, and at the time the then Director of the Department for the Arts and Cultural Heritage was moved to become Director of the Department for Family and Community Services—with my approval, I may add. It was suggested to me that the Government would want her services in that position, and I obviously took the view that, if she wished to take such a position, I would certainly not stand in her way in doing so.

This meant that I needed to find a replacement for the Director of the Department for the Arts and Cultural Heritage and, after discussions with the Commissioner for Public Employment, there were several people already in the Public Service who were mentioned as possibly being available. Although they all had positions elsewhere in the Public Service, it was felt that they might be interested in the position of Director of Arts and Cultural Heritage. I interviewed two of these people, both of whom expressed to me their willingness and interest in becoming the Director of the Department for the Arts and Cultural Heritage and, following those interviews, after consultation with my Cabinet colleagues I decided to appoint Dr Willmot as the Director of the Department for the Arts and Cultural Heritage.

I have certainly never heard that he was unwilling to take the position. In fact, when I interviewed Dr Willmot he expressed great interest in the position and said he would be delighted and feel very privileged to be Director of the most prestigious and best known Department for the Arts and Cultural Heritage in Australia. Those were his exact words. It was with great delight that I was able to appoint him to this position, and certainly he has performed most admirably and justified my faith in him.

I think that he has distinguished himself considerably in the position. I mention this as background because the sequence of events as described by the honourable member as an introduction to his question was rather belittling to Dr Wilmott and I felt it was quite unjustified and a totally inadequate account of the sequence of events. At the time, Dr Wilmott did indicate that there were two people who had worked very closely with him in the Department of Education whom he felt he would like to bring with him to the Depart-

ment for the Arts and Cultural Heritage to continue the close working relationship which he had had with them. One individual, in a fairly senior policy position, was certainly well equipped to apply his talents and skills in the arts area just as much in the education area, his interests and abilities being very much involved in that area. The other was the personal secretary to Dr Wilmott with whom he had worked in close association for a considerable time. He wished to continue with the same personal secretary as he had previously. The arrangements were certainly made so that those transfers could occur. Certainly, the position of the senior policy person has been advertised.

The Hon. R.I. Lucas: Why did the department have to pay for them? There is no problem with them transferring, but why did the Education Department have to pay for them?

The Hon. ANNE LEVY: The arrangement was made that they were on the staff of the Education Department. There was, at that time, no available money for extra staff in the Department for the Arts and Cultural Heritage and as a temporary measure the people who would otherwise have been on the payroll of the Education Department anyway were to work as a temporary measure within the Department for the Arts and Cultural Heritage. One of those people, as I say, has since applied for a vacant position in the Department for the Arts and Cultural Heritage, along with many other people, and that person won the position on merit after the normal and appropriate Public Service appointment procedures. I must admit that I am unaware at this time of the actual status of the other person but I will certainly seek the detail which the honourable member requested and supply him with the answers. I do not have those details with me. In view of the privacy of the individuals concerned, I think it would be better for them not to be named in Parliament. If the honourable member wishes to have the details of the names I am quite happy to provide them privately, rather than have them publicly bandied about on the floor of the Council.

The Hon. R.I. LUCAS: Mr President, I ask a supplementary question: subsequent to the appointment of Dr Wilmott as the Director of Arts and Cultural Heritage, was the Minister ever advised that there had been a problem in the appointment process of Mr McPhail and Dr Wilmott, and that Dr Wilmott, whilst he had been appointed as Director of Arts and Cultural Heritage, still remained the Director-General of Education under the provisions of the Education Act?

The Hon. ANNE LEVY: I was certainly never advised of any such matter. There may have been some question of appointment documents. I am certainly not aware of any details of this and nothing was ever drawn to my attention in this regard.

The Hon. R.I. Lucas: You were never advised?

The Hon. ANNE LEVY: I was never formally advised.

The Hon. R.I. Lucas: Informally advised?

The Hon. ANNE LEVY: I did hear some story—

The Hon. R.I. Lucas: So you were advised?

The Hon. ANNE LEVY: No, I was advised—

The Hon. R.I. Lucas: You were; you know you were.

The PRESIDENT: Order!

The Hon. ANNE LEVY: I was not advised. There was some sort of gossip about instruments of appointment—

Members interjecting:

The PRESIDENT: Order!

The Hon. ANNE LEVY: No, I was not advised. I categorically deny that I was ever advised of any problems whatsoever in the appointment.

The Hon. Diana Laidlaw: Somehow you learned about it.

The Hon. ANNE LEVY: I heard some sort of rumour, scuttlebutt, in conversation. Nothing was ever formally or informally drawn to my attention in this regard.

Members interjecting:

The Hon. ANNE LEVY: I had appointed Dr Willmot as Director of the Department for the Arts and Cultural Heritage. I was delighted that he was able to take that position and the Hon. Ms Laidlaw indicated to me that she was delighted he had taken the position. I reiterate that I was very pleased that he was able to take the position and I commend him most fervently for the way he has undertaken his duties in the 12 months since that time.

EVANS, HON. MARTYN

The Hon. K.T. GRIFFIN: I seek leave to make an explanation before asking the Attorney-General a question about the Hon. Martyn Evans.

Leave granted.

The Hon. K.T. GRIFFIN: When the Hon. Martyn Evans and the Hon. Terry Groom joined the Premier (Mr Arnold) as Ministers in a coalition Government, the Premier indicated that, while they are bound by a decision of Cabinet, they would continue to enjoy the freedom to pursue some policy positions they had held before becoming Ministers. Presumably, if Mr Evans now rejoins the ALP—that decision may have even been taken today—that freedom will disappear.

Mr Evans has publicly stated his views on a number of issues, for example, fixed four year terms for Parliament, WorkCover changes, petrol taxes in lieu of registration fees and third party insurance charges and the return to the northern suburbs of money diverted to fund the multifunction polis at Gillman. One must question what undertakings or commitments the Government (or the Premier) has given to Mr Evans in relation to those sorts of policy issues. Is he now no longer pursuing those matters or has the Premier (or Government) given an undertaking that certain policy issues will now be pursued by the Government?

The curious aspect of Mr Evans' reunion with the ALP, so that he now becomes part of the ALP machine and loses any independence, is that in November 1984, in the *News*, the following report appeared:

> Mr Martyn Evans said today he had decided to quit the Labor Party and stand as an Independent at the Elizabeth by-election because he was disillusioned with the Party's preselection procedures. He said Labor was functioning with 'stacked meetings, drummed up rolls and machine politics. This would be the death of democracy in the Party.' He said Labor Party factions had 'done deals' over the Elizabeth preselection as part of a package involving several other Labor seats. Labor's Left wing and the trade unions had orchestrated the result. 'People must begin to question the integrity of the Labor Party.'

Members interjecting:

The Hon. K.T. GRIFFIN: As some of my colleagues have interjected, nothing much has changed. The other curious aspect of the course that Mr Evans is following is that, as I understand it from newspaper reports, the ALP is seeking to bypass its normal State bodies and avoid controversy between its factions (and even tension within the parliamentary Labor Party) and is seeking approval for Mr Evans' reinstatement from the Labor Party's National Executive, which I understand will be considering the matter today. My questions to the Attorney-General are as follows:

1. What deals has the Government done with Mr Evans to allow him to rejoin the ALP and become a full member of the Government?

2. Are there any commitments or undertakings on either side, particularly in relation to his future prospects in the ALP, the Parliament or otherwise?

3. Who conducted the negotiations within Government?

The Hon. C.J. SUMNER: This is a matter for the ALP. It ill behoves a former apparatchik of the Liberal Party—a machine man from the Liberal Party—the Hon. Mr Griffin, to come in here and talk about Mr Evans rejoining the Labor Party.

Members interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: Yes, that is right. The Hon. Mr Griffin, the former President and machine apparatchik of the Liberal Party, comes in and starts to talk about activities that occur within the Labor Party. The honourable member may be interested to know that Mr Evans was readmitted to the Labor Party today.

The Hon. R.I. Lucas: How did the Left vote?

The Hon. C.J. SUMNER: I do not know.

Members interjecting:

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

The Hon. C.J. SUMNER: As someone who is well beyond the machinations of the factions and the machine apparatchiks of the Party, I cannot answer questions like that, unlike the Hon. Mr Griffin who, I am sure, is fully aware of what happens in these matters within the Liberal Party, or at least he was when he was President, although I understand he is somewhat more sidelined these days than he was some 15 years ago. But that is not a matter for me to comment on. This matter was handled by the Labor Party; it is a matter for the Labor Party. Mr Evans has now been readmitted to the Labor Party and is therefore bound by the rules of the Labor Party, just as the Hon. Mr Griffin is bound by the rules of the Liberal Party. Mr Evans is perfectly free to pursue issues of interest and concern to him just like any other member of the Labor Party within the forums of the Party and the Government.

BUS ACCIDENTS

The Hon. DIANA LAIDLAW: I seek leave to make a brief explanation before asking the Minister of Transport Development a question about STA bus accidents.

Leave granted.

The Hon. DIANA LAIDLAW: A response from the Minister yesterday to a question asked by the member for Bragg during the Estimates Committees confirms calls I have received in recent weeks alerting me to the high number of accidents involving STA buses since the STA began recruiting part-time drivers mid-year. The Minister advised that during the 21-day period, 26 August to 16 September, 15 of the STA's part-time bus operators had accidents, with repair costs estimated to be $4 360.

Fortunately, I note from the Minister's reply that not one of the 15 bus drivers was injured, although two passengers sustained minor injury in one accident. However, the accident figure that the Minister gave for that two-week period represents 12 per cent of the STA's 127 part-time bus operators and it does seem to be an extraordinarily high figure.

Meanwhile, I note that the Minister's reply refers only to the number of part-time bus operators who were involved in bus accidents and not to the number of accidents involving part-time operators. The advice I received, which formed the basis of the question to the Minister in the Estimates Committee, was that 23 of 28 recent STA accidents involved part-time operators, and this matter was not addressed in the Minister's reply. If the figure is correct, part-time operators accounted for 82 per cent of recent accidents. Therefore, how many bus accidents have been reported since the STA started using part-time bus operators and, of this number, how many have involved part-time bus operators? Is the Minister satisfied that the training received by part-time bus operators is sufficient for the responsible nature of their job?

The Hon. BARBARA WIESE: If I recall correctly, during the Estimates Committee hearing Mr Brown, the General Manager of the STA, indicated in response to the specific question asked on Ms Laidlaw's behalf that that information was not accurate, although he did not have the information with him. However, he provided information about accidents of part-time operators and I presume that that information is correct. If it is not I would like to know why.

The Hon. Diana Laidlaw: It does not address the question.

The Hon. BARBARA WIESE: I shall take the matter up further with the STA if the honourable member feels that the information she has received does not answer her question. As to the training received by new employees of the STA, I have to rely upon the information I receive from the STA about this matter. I am advised that the training procedures being followed are quite adequate for the purpose of bringing people into the service who can provide a safe and efficient service within the State Transport Authority. Of course, as these training programs proceed, as with all training programs, they are monitored and reviewed. If there are ways in which the training provided can be improved then, of course, that will be undertaken as the procedure is followed through. The advice I have received thus far is that the training is adequate and it is appropriate for the individuals concerned.

The Hon. DIANA LAIDLAW: I have a supplementary question. Will the Minister explore the matter of 15 part-time bus drivers being involved in accidents during a two week period representing 12 per cent of such bus drivers? Will she investigate if that was an unrepresentatively high figure for that two week period or whether it is a standard figure? If she believes that the figure is too high will she ask that these procedures be monitored and reviewed because it is an issue of public safety and concern on our roads?

The Hon. BARBARA WIESE: I will be happy to provide that further information as to the proportion of all accidents during that period. It should be noted that the information already provided, which indicated that the damage overall to vehicles during that 21 day period amounted to around $4 000, is an indication that the accidents that have taken place are of a relatively minor nature. If that were not the case then I am quite sure the damages bill would be significantly higher for the sort of vehicles we are operating in our public transport fleet. I believe that the situation that has been described is not as serious an issue as might appear on the face of it but I will certainly seek further information along the lines the honourable member has requested.

JOINT PARLIAMENTARY SERVICE COMMITTEE

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

That, pursuant to section 5 of the Parliament (Joint Services) Act 1985, the Hon. R.I. Lucas be appointed as the alternate member to the Hon. J.C. Irwin on the committee in place of the Hon. R.J. Ritson (resigned).

Motion carried.

SCHOOL SECURITY

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister representing the Minister of Education, Employment and Training a question about school security in the Mitcham Hills area.

Leave granted.

The Hon. M.J. ELLIOTT: I raise this question in the light of the recent spate of vandalism attacks on schools in the Mitcham Hills area, and, in particular, following the $500 000 attack on the Blackwood Primary School on Monday night.

The number of properties which have been damaged in recent months by senseless vandal attacks has alarmed local residents. I might add that that relates not only to schools. Now the community is suffering more directly with the loss of a resource centre and several classrooms from the school in Monday's deliberately lit blaze. Vandalism at the primary school and adjoining high school has been a problem for some time, with many windows being smashed. There are some who believe that the Education Department should be making security concerns a higher priority not only on that campus, but in other schools.

In the same Mitcham Hills area, two other local schools are shortly likely to undergo significant building programs. Belair Primary School is proposing to collocate with Belair Junior Primary School, and the Coromandel Valley Primary School is about to have a new wing added. It is now most likely, after the fire, that the Blackwood school will face significant renovations.

It has been suggested to me that we should be looking at putting in our schools on-site caretakers who live on site. When we consider the number of schools facing significant building programs, one asks why, as part of that building program, we are not considering putting in on-site caretakers.

Of course, the Government has also canvassed the option of using motion-activated security cameras in the schools. Mitcham Hills residents realise that upgrading security in schools is only part of the solution, and they have also called for improved community policing, which has been a problem in the area for a long time, improved court procedures for juveniles and better recreation facilities for the area's youth. I ask three questions:

1. Will the Minister investigate the possibility of installing on-site caretakers, particularly in relation to those schools which are facing building programs in the near future, and the possible installation at the same time of security cameras as part of that building program?

2. Will the Government consider this more generally throughout South Australian schools?

3. Will the Minister, in the light of losses not just in relation to this fire but to other significant fires, prevail upon the Minister responsible for the police to look at proper community policing, recognising that some schools have become hang-outs for groups of youths, as, with community policing, those groups would tend to be moved on?

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

STATE GOVERNMENT INSURANCE COMMISSION

The Hon. L.H. DAVIS: I seek leave to make an explanation before directing a question to the Attorney-General, as Leader of the Government in the Council, on SGIC property investments.

Leave granted.

The Hon. L.H. DAVIS: In July 1991, SGIC was forced to acquire 333 Collins Street, Melbourne, for $465 million. Over the past two years this investment has been written down by a massive $245 million to a current value of just $220 million. In addition, there have been holding, acquisition and other costs totalling $112.9 million. In other words, about $358 million has either been written down or lost on this investment in just two years. By the end of the 1993-94 financial year that figure could well exceed $400 million.

In June 1992, 333 Collins Street was transferred to SAFA and in June 1993 the building was passed on to the Group Asset Management Division, which has responsibility for the 'bad' bank assets of the State Bank. Without the transfer of 333 Collins Street out of SGIC's balance sheet and the forgiveness of debts owing by SGIC, that institution could have been described as technically bankrupt.

However, yesterday's updated list of properties owned by SGIC in South Australia and published in *Hansard* suggests that enormous problems remain. SGIC's 1992-93 annual report admits that only 60 per cent of its office space is let and only 67 per cent of industrial properties are let. Yesterday's list reveals that dramatic losses have been made by SGIC in recent sales of empty buildings and development sites.

The celebrated and controversial building at 1 Port Wakefield Road, Gepps Cross, which was purchased by SGIC in May 1989 for $1.8 million from a company in which SGIC Chairman, Vin Kean, had a major interest, was sold in May 1993 for only $890 000. This building remained empty for the four years that SGIC owned it. Mr Kean's company had purchased the building for $1.4 million in late January 1989, and in a few weeks grossed $400 000 when SGIC, as the only bidder at the auction, purchased the empty building. This building has been sold for less than half its purchase price and, after taking into account holding and other costs, SGIC has lost well over $1 million on this disgraceful deal. I understand that this building is now being used for go-kart racing, which seems somehow grimly appropriate.

A development site, consisting of three separate properties at Richmond Road and South Road, Mile End, purchased for $5.375 million in 1987 and 1988, was sold earlier this year for just $3.9 million. Again, there was no rental income to SGIC during the period of its ownership.

Lots 7 and 8 Cavan Road, Cavan, bought in May 1989 for $3.2 million, were ditched in June 1992, just three years later, for only $1.825 million.

An office building at 46 Fullarton Road, bought in May 1989 for $1.4 million, was sold in September 1993 for only $750 000—little more than half the purchase price.

Then 22 Grote Street, bought in October 1988 for $1.2 million, was sold three and a half years later in June 1992 for only $750 000. It seems that the list is endless. But SGIC's current property portfolio, as published yesterday in *Hansard*, reveals there are many more property dogs

remaining—either empty development sites or office buildings. A leading Adelaide property expert described SGIC's property binge during the late 1980s as unprofessional, unstructured and a scatter-shot approach which was totally inappropriate for an investing institution of its size.

The current property portfolio was described as mediocre and rather like the back end of a cow. My questions to the Attorney-General are:

1. Will the Government advise what steps it has taken in conjunction with SGIC to minimise the continuing financial haemorrhage from its property portfolio?

2. What Government departments or statutory authorities have recently moved or are planning to move into SGIC-owned office buildings?

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

NATIONAL RAIL CORPORATION

The Hon. I. GILFILLAN: I seek leave to make an explanation before asking the Minister of Transport Development a question relating to the National Rail Corporation.

Leave granted.

The Hon. I. GILFILLAN: I received a letter dated 20 September this year from the General Manager of TNT Darwin Express, which has its head office on Fullarton Road in Eastwood, Adelaide. Addressed to me, the letter reads as follows:

Dear Ian,

I would like to thank you for your hospitality and the pleasant luncheon in your Chambers last Tuesday. Also, I express my pleasure in being able to address the Rail 2000 members on rail developments. It was perhaps a little unfortunate that more industry representatives were not able to come and provide a wider perspective to the discussions. This is a good opportunity to reinforce my reply to your comment that it would perhaps be in the TNT Group of Companies interest to see the freight move to road to provide better utilisation of our vehicles.

I had asked Mr Chinn whether it would be to TNT's advantage to have more of its semitrailers used on the road, and this letter is in response to that. The letter continues:

The TNT Group of Companies is the biggest rail freight forwarder in Australia and is probably only second in size to BHP Steel in the National Rail Corporation's current list of clients. A significant amount of capital expenditure has been committed in recent years to providing and developing the latest technology in container equipment to maximise the utilisation of rail linehaul modes. The equipment includes tautliners, to expedite loading and discharge times; half-height units, to optimise the five pack double stack opportunities on the Perth and Alice Springs corridors; development of railroaders with a special car carrier prototype designed and built by TNT currently being trialled on the Adelaide-Perth corridor; and development of lightweight 40ft tautliners to maximise payload capacity.

Similarly, we have invested in Skel trailers (skeleton frames) to facilitate the transport of rail units to and from rail, again to maximise payload opportunities.

So, in fact, the TNT Group of Companies has a lot of capital tied up in equipment that can only be fully utilised if supported by an efficient rail network. Hence our need and vested interest in seeing the National Rail Corporation succeed, and our frustration at the need to invest further capital to provide an alternative road infrastructure to satisfy the needs of our customers, due to the inability of the rail network to perform.

I repeat those words 'due to the inability of the rail network to perform'. The letter continues:

Our frustration might be eased a little if we were seeing progressive improvements in the level of service, but in all honesty, in my five year experience with the Australian rail system, I have only seen a gradual demise in services.

In the last two months, I personally know of some 3 500 tonnes of traditional rail freight from the East Coast being diverted to coastal shipment for transfer to the ports of Darwin and Perth. My information is that the industries involved have every intention of continuing the practice to achieve supply reliability and cost savings over the rail system. The rail may be experiencing an increase in volumes, but it can still only be translated into a loss of market share in reality. Again, I thank you for the hospitality provided and look forward to the day when I can again attend your meetings and advise that we are experiencing a marked improvement in service from the National Rail Corporation rail network and are reversing the current trend of having to direct freight to road services.

Yours sincerely,
TNT DARWIN EXPRESS,
RAY CHINN,
General Manager.

It is quite clear from that letter that TNT has a very serious intention to maximise its use of rail and, contrary to my leading question, it has a vast investment in making use of the rail. My questions to the Minister are: in the light of the letter to me dated 20 September from Mr Ray Chinn which I have just read expressing dissatisfaction with the National Rail Corporation, was she aware of TNT Darwin Express's lamentable opinion of the National Rail Corporation; if so, what is she doing about it? Will she immediately contact Mr Chinn to ascertain what, where and how the National Rail Corporation is failing to meet in particular the requirements of TNT Darwin Express and, if not, why not?

The Hon. BARBARA WIESE: To answer the first question, no, I was not aware of TNT's view about the national rail network. As to the second question, I am interested at any time to hear from people in the transport industry about their views on transport issues, and I am sure that if TNT wants to make me aware of its position on some of these things it will do so. But if it wants to improve the rail service that it is receiving from the National Rail Corporation, the company would be better placed to direct its inquiries to the board of the National Rail Corporation.

The South Australian Government is not a formal shareholder in the National Rail Corporation, as the honourable member is aware, and we therefore have no direct influence over decisions that are taken by the NRC, any more than does the honourable member. He would probably have about the same extent of lobbying power that I as Minister of Transport Development would have in this matter.

It is certainly in TNT's interests to draw its concerns about the rail service in Australia to the attention of those who provide the service. I would like to say, however, that the decisions that were taken by the Federal Government some time ago to establish the National Rail Corporation were taken for the very reasons to which TNT is referring, namely, that the Federal Government realised that, if we were to have an efficient, effective and reasonably priced freight service in Australia, efforts would have to be made to rationalise the rail network in Australia, to provide a truly integrated national rail network and therefore to reduce costs and improve service to customers over time. That is absolutely the reason why the NRC was formed in the first place.

The situation that has existed so far in Australia is that we have a number of rail organisations that operate on various parts of the Australian continent. Having to deal with different rail authorities, different pricing structures and different subsidy schemes and a whole range of other things makes it very difficult for anyone who is looking for a national service to operate within such a framework. Although it is fair to say that Australian National has done an excellent job in the areas in which it has been operating in the

past few years in establishing much greater efficiency and a much better service than people have been able to receive from some of the State rail authorities, there was, nevertheless, a need to extend that even further and ensure that we had a proper National Rail Corporation.

The National Rail Corporation commenced operation early this year, and it has taken over some of the operations that were previously undertaken by other rail authorities. Progressively it will take over other parts of the rail network as the corporation grows and is in a position to do so. However, it will be some years before the full benefits of the establishment of a national rail organisation will be fully felt within the Australian system. The benefits that such a corporation can bring will not be fully felt by companies such as TNT until all those establishment issues have been resolved and the NRC is in full command of the rail network around Australia.

In summary, I would say that, in working with State Governments to establish the National Rail Corporation, the Federal Government is certainly heading in the right direction as far as rail policy is concerned. The South Australian Government has undertaken to do whatever it can to assist in the formation of the National Rail Corporation, and I would encourage companies such as TNT to take their concerns direct to the people who will be making the business judgments about what sort of service will be operated, what freight rates will apply, and so on, so they can extract the very best possible deal from this new corporation.

The Hon. I. GILFILLAN: Mr President, as a supplementary question, would the Minister join with me in approaching the South Australian company TNT Darwin Express and take with them the particular problems they are having to the NRC board so that their concerns can be properly and forcefully put at the place where the decisions can be made and the situation changed?

The Hon. BARBARA WIESE: I doubt whether that action is necessary. TNT is a very large organisation in Australia. It has been able to open any doors in Australia that it ever wanted to open and there is absolutely no reason to suggest that it would need the assistance of either the Hon. Mr Gilfillan or myself in approaching the National Rail Corporation. The honourable member has already indicated that TNT is one of the largest users of rail in this nation. If it cannot put to the National Rail Corporation its own view about what needs to be done, then no-one can. The honourable member might want to organise a political stunt, but I would suggest to him, as I would suggest to TNT if they care to approach me, that they are in a very strong position to be able to take up these issues—as I am sure they already have and will continue to do—with the people who can make the changes that they believe are desirable. However, if TNT is interested in approaching me about this matter it is very welcome to do so.

FIRE SERVICE LEVY

The Hon. CAROLINE SCHAEFER: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister of Emergency Services, a question about the fire service levy.

Leave granted.

The Hon. CAROLINE SCHAEFER: It has come to my notice that people who pay a metropolitan fire service levy pay a 42 per cent levy whereas those on a Country Fire Service levy pay 17 per cent. This is justified by the fact that the CFS is staffed by volunteers. However, country regional centres such as Port Augusta and Mount Gambier are zoned metropolitan and are paying a metropolitan levy even though they run at considerably less cost. I have been informed that one industrial business in Mount Gambier actually pays more levy than the total cost of running the Mount Gambier Fire Brigade, which means that anyone else paying fire insurance in that area is subsidising the Adelaide Fire Brigade. To add insult to injury, policyholders are charged 8 per cent stamp duty on the gross amount of their premium, that is, on the cost of the premium plus the fire levy; a tax on a tax. Only about 50 per cent of premises and businesses carry fire insurance, but fire fighting services attend all calls so those insured pay for those who are not. My questions are:

1. Who pays for fire insurance on Housing Trust rental homes?

2. Has consideration been given to a user pays levy rather than a payer pays levy?

3. Has consideration been given to an across the board levy on all property so that there is a more equitable spread of costs?

The Hon. C.J. SUMNER: This is a long running issue. I do not want to canvass all the issues relating to it at the present time, but there is certainly a long history to it. There is objection to the current system from some quarters, but so far no-one has been able to devise an equitable and politically acceptable alternative. The honourable member's question involves some specific issues which I will refer to the Minister and I will bring back a reply.

MULTICULTURAL AND ETHNIC AFFAIRS COMMISSION

The Hon. J.F. STEFANI: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister of Multicultural and Ethnic Affairs, a question about the appointment of the Chairman to the Multicultural and Ethnic Affairs Commission.

Leave granted.

The Hon. J.F. STEFANI: On 1 July 1992, Mr Nocella was appointed as Chairman of the South Australian Multicultural and Ethnic Affairs Commission for a period of five years, ending 30 June 1997. Mr Nocella had previously been a part-time member of the commission from May 1990. In the *South Australian Government Gazette* dated 16 September 1993 the Department of the Premier and Cabinet announced that Mr Nocella had been appointed as a member and Chair of the Multicultural and Ethnic Affairs Commission. The *Gazette* notice announcing the appointment does not specify the period of his appointment as a member and Chair of the commission. Subclause (4) of clause 6 of the South Australian Multicultural and Ethnic Affairs Commission Act 1980 requires that the Chair of the commission must be appointed for a term of office not exceeding five years and on such conditions as are specified in his or her instrument of appointment. In view of the lack of information published in the *South Australian Government Gazette* dated 16 September 1993 in relation to Mr Nocella's appointment as a member and Chair of the board, my questions are:

1. Will the Minister confirm that the period of the original appointment of the Chairman of the South Australian Ethnic Affairs Commission is for a period of five years?

2. Will the Minister provide a copy of the original estimate of appointment?

3. Will the Minister outline the purpose of the gazetted notice dated 16 September 1993 and confirm that the notice seeks to confirm the original five-year period of appointment?

4. If that is not the case, what is the new appointment period of Mr Nocella as Chairman of the commission, and under what conditions of his original instrument of appointment was the Government able to extend his appointment before the expiration of his five-year term?

The Hon. C.J. SUMNER: Mr Nocella is Chairman of the commission and Chief Executive Officer of the commission, and that is the appointment that I understand was effected in September. But I will check the circumstances and bring back a reply.

LAND VALUATIONS

The Hon. PETER DUNN: I seek leave to make a brief explanation before asking the Minister representing the Minister of Environment and Natural Resources a question on returns to the Valuer-General.

Leave granted.

The Hon. PETER DUNN: I have received a form from the Valuer-General's office in Port Lincoln which requires quite detailed information to be completed in relation to the physical properties of farms on Eyre Peninsula. I have been contacted by several primary producers in my own area who have also received this form, and I presume that every farmer in Australia has received such a request for information. The detail required on the form which I have seen is quite extreme. For example, it is necessary to show the areas sown to various crops—wheat, barley and oats—including their yields over the past five years; the rotations on the farm; the amount of fertiliser used, sown with the crop or top-dressed; and the number of stock and, in the case of sheep, the number of ewes, wethers and hoggets. From this detail a complete inventory of income could be deduced.

This information is not readily accessible and involves researching records to obtain averages etc., which is quite time consuming and it is something that most farmers could well do without at this time of the year. The farmers who have received this request form are suspicious of any organisation other than the Australia Bureau of Statistics receiving this information, believing that it may be used for other than valuation purposes; for example, income assessment and the fact that some families have applied for Austudy and have been refused after being visited by Federal valuators who have placed unrealistic values on the applicants' properties and so deemed them ineligible for Austudy grants. The information required on some sections of the form appears to be reasonable; for example, details of the number of sheds and their construction and of housing, fences, dams, water reticulation and their state of repair—information that is necessary to assess a valuation. It has been pointed out that, traditionally, notional valuations have been made by using comparable sales of land in the vicinity of the area in question.

My questions are:

1. From where has this detailed return originated?

2. Has the Minister requested this information for his department?

3. Is the detailed information confidential? If not, who has access to it?

4. Why does the Valuer-General need such details to assess notional valuations of land and improvements?

5. Are these details to be obtained throughout South Australia, including urban areas, and will they include the income of urban landowners?

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

SOUTH AUSTRALIAN FILM CORPORATION (ADMINISTRATION) AMENDMENT BILL

The Hon. ANNE LEVY (Minister for the Arts and Cultural Heritage) obtained leave and introduced a Bill for an Act to amend the South Australian Film Corporation Act 1972. Read a first time.

The Hon. ANNE LEVY: I move:

That this Bill be now read a second time.

The South Australian Film Corporation Act was originally assented to in 1972. There has been a number of amendments to the Act since then concerning the repeal of provisions in relation to the South Australian Film Advisory Board and the separation of the role of Chair and Managing Director of the corporation. A number of inconsistencies are apparent in the South Australian Film Corporation Act when compared to other Acts within the arts and cultural heritage portfolios. These inconsistencies have over the past 18 months and during a period of operational difficulty affected the operational effectiveness of the corporation.

The Government recently supported the recommendations of a review into the corporation, which will result in a new organisational structure being created. This reorganisation will not affect the corporate body, which will continue to operate under the Act under the name of the South Australian Film Corporation. Adoption of the review recommendations does, however, require some amendment of the Act to improve operational efficiency and accountability of the members of the corporation.

The review recommends that the membership of the corporation be increased in size. An increase in the overall size of the membership from six to 10 should ensure that greater expertise and knowledge will be available for the operation of the corporation and enhance staff accountability. Present legislation does not clearly identify responsibility for the administration of the Act. In fact, there is clearly an overlap of the same responsibility between the corporation and Managing Director. Currently the Managing Director is appointed by the Governor and reports directly to the Minister. It is proposed that this be amended so that the corporation has the power to appoint a Chief Executive Officer and that the Chief Executive Officer report to the corporation.

An amendment to the method of appointment and the reporting relationship of the Chief Executive Officer is seen as paramount to the efficient and effective operations of the corporation. This amendment is consistent with the appointment and reporting arrangements in other Acts for statutory authorities within the arts and cultural heritage portfolio. Finally, the opportunity is being taken to insert into the Act provisions relating to conflict of interests and corporation members' duties of honesty and care in the same form as provisions made in recent Acts establishing statutory corporations.

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

Leave granted.

Explanation of Clauses

Clause 1: Short title

Clause 2: Commencement

Clauses 1 and 2 are formal.

Clause 3: Amendment of s. 4—Interpretation

Clause 3 amends the principal Act by striking out the definition of Chairman and replacing the definition of Managing Director with Chief Executive Officer.

Clause 4: Amendment of s. 5—Establishment of the Corporation

Clause 4 increases the number of members of the Corporation from six to not less than eight and not more than ten. It provides that the Chief Executive Officer is eligible for appointment to the Corporation.

Clause 5: Substitution of s. 6

Clause 5 strikes out section 6 of the principal Act and inserts three new sections. The proposed section 6 varies from the current provision by increasing the number of members constituting a quorum of the Corporation from four to five, by providing that a telephone or video conference between members be taken to be a meeting of the Corporation, by providing that a resolution of the Corporation becomes a valid decision of the Corporation despite not being voted on at a meeting if the notice of the proposed resolution is given to all members and a majority of the members express their concurrence in the proposed resolution, by stating that accurate minutes be kept of the Corporation's proceedings and by stating that the Corporation may determine its own procedures.

The proposed section 6A provides that a member of the Corporation must disclose any pecuniary or personal interest in any matter under consideration by the Corporation. It provides a defence if the defendant can prove that they were unaware of their interest in the matter. Any disclosure must be recorded in the minutes and reported to the Minister. If a member discloses an interest in a contract and takes no part in any deliberations on the contract the contract is not liable to be avoided and the member is not liable to account for profits derived from the contract.

The proposed section 6B provides that a member must always act honestly and exercise a reasonable degree of care and diligence in the performance of official functions. If a member is culpably negligent in the performance of official functions the member is guilty of an offence. A member or former member must not make improper use of his or her official position, or of information acquired through his or her official position, to gain a personal advantage or to cause detriment to the Corporation or the State.

Clause 6: Amendment of s. 9—Power to appoint Chief Executive Officer and other employees

Clause 6 amends section 9 to provide that the Chief Executive Officer is to be appointed by the Corporation and, subject to the control of the Corporation, is responsible for the management of the operations of the Corporation.

Clause 7: Amendment of s. 12—Power of Corporation to delegate powers

Clause 7 inserts a new subsection into section 12 to provide that a delegate must not act in any matter pursuant to the delegation in which they have a direct or indirect pecuniary or personal interest.

Clause 8: Repeal of Part III

Clause 8 repeals the provisions relating to the Managing Director. In place of a Managing Director there will be a Chief Executive Officer-see clause 6.

Clause 9: Amendment of s. 26—Superannuation

Clause 9 is a consequential amendment.

Clause 10: Amendment of s. 30—Annual report

Clause 10 is a consequential amendment.

Clause 11: Amendment of s. 33—Regulations

Clause 11 is a consequential amendment.

Clause 12: Transitional provision

Clause 12 provides that the members in office immediately before the commencement of this Act will continue in office under the principal Act as amended by this Act.

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

ENVIRONMENT PROTECTION BILL

In Committee.

(Continued from 6 October. Page 456.)

Clause 141—'Regulations.'

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

Page 100, lines 13 to 15—Leave out subclause (8).

Clause 141 deals with regulations, but there is a rather curious provision in subclause (8) that section 10a of the Subordinate Legislation Act applies to a regulation under this Act as if references in that section to the Legislative Review Committee of the Parliament were references to the Environment, Resources and Development Committee of the Parliament.

There is a long established procedure for reviewing regulations. That procedure, established by the Subordinate Legislation Act quite a number of years ago, is that, when the regulations are made, they are laid on the table of both Houses and then they may be subject to scrutiny by what was then the Subordinate Legislation Committee and is now the Legislative Review Committee, and then in either House of Parliament a member may give notice of disallowance. The Subordinate Legislation Committee and its successor the Legislative Review Committee have developed some specific procedures for dealing with controversial regulations.

They take evidence after giving public notice and they deal with the essence of the regulations, not just whether or not the regulations are within power but also the desirability of the regulations as subordinate legislation. The Legislative Review Committee tables reports if it decides that it wants to further examine regulations, and that is a well established procedure applicable to all regulations.

What the Government wants to do in this Bill is provide that, instead of the Legislative Review Committee reviewing all regulations, the responsibility is to be handed to the Environment, Resources and Development Committee of the Parliament. I can understand the desirability of having the Environment, Resources and Development Committee look at environment protection policies because they are policy issues. When it comes to subordinate legislation it is the Liberal Party's and my strong view that the Environment, Resources and Development Committee has no role. That role is the role of the Legislative Review Committee, a committee which you chair, Mr Acting Chairman, and anyone who thinks about the issues relating to subordinate legislation must surely agree with me that it is quite inappropriate to have regulations, whether under this or any other Act, examined by any committee other than the committee that has the responsibility for overseeing the subordinate legislation of the Government of the day and has the well developed procedures and capacity to undertake that role of scrutineering those regulations.

Therefore, it is for that reason that I seek to remove subclause (8). There is no reason to wander from the established pattern in relation to subordinate legislation and, as I have said, I strongly believe we ought not to alter the status quo because there may be some special concern about regulations under the environment protection legislation. The Legislative Review Committee is more than competent to deal with those sorts of issues, particularly addressing the issue of subordinate legislation.

The Hon. ANNE LEVY: The Government opposes the amendment. It is only a few months ago that the Parliament accepted an identical clause in the Development Bill. The regulations under the Development Act will go to the Environment, Resources and Development Committee of the Parliament, the basis of this (and it was accepted by the Parliament then) being that the body which looks at the policy

should also look at the regulations, seeing that in some areas policy and regulations are closely intertwined. The same clause appears in this Bill as it is part of the package and it is felt likewise that in these environmental matters it is important that the regulation and policy considerations should go to the same committee of the Parliament, that is, the Environment, Resources and Development Committee. As an example, I could quote the whole question of exemptions. Some exemptions are clearly policy matters which will need to be looked at by the Environment, Resources and Development Committee. Other exemptions will be through regulations.

It is surely desirable that the whole question of exemptions, whether through policy or regulation, should be investigated by the same committee of the Parliament so that the consistent overview can be maintained. I repeat: this provision is identical to the provision in the Development Bill and the Government feels it most desirable not only that the same principle apply but that the same detail apply for the Environment Protection Bill as applied for the Development Bill.

The Hon. M.J. ELLIOTT: The Democrats will oppose the amendment. The Environment, Resources and Development Committee will continue to build up expertise in the areas relevant to the Bill, as the Minister said. It will be handling a number of other matters relevant to it. It is quite a nonsense to have the Legislative Review Committee, which has no detailed understanding of the legislation and what goes with it more generally, to be involved in review of the regulations. I suspect that the pattern being established here might actually be repeated in other legislation so that the appropriate committee might not be the Legislative Review Committee but some of the other standing committees as well, with other appropriate legislation. It causes me no difficulty at all; in fact, it makes good sense that the Bill stays as introduced.

The Hon. K.T. GRIFFIN: Notwithstanding that it is in the Development Act, it is not correct for the Minister to say what she has said. It is correct to say that the particular provision is identical but it is not correct to say that the context in which it appears is identical. In the Development Act the regulations are of a more substantive nature. They may adopt wholly or partly, with or without modification, a code relating to matters in respect of which regulations may be made under the Act or otherwise relating to any aspect of development, or an amendment to such a code; whereas, in the Environment Protection Bill the regulations are essentially administrative: vary the provisions of schedule 1—certainly, that is not administrative—exempt classes, prescribe forms, prescribe fees, authorise the release of information and prescribe fines, not exceeding a division 6 fine.

So, the nature of the regulations under the Bill is certainly different from the regulations under the Development Act, but I still argue the point strongly that it is not a good precedent to establish—even in the Development Act. Certainly, I may not have been on top of it at that stage and let it slip through without observation, but it is undesirable for review of subordinate legislation to be undertaken by a range of different committees in the Parliament. Subordinate legislation review is appropriately dealt with by one committee and one committee only. Therefore, I adhere strongly to my amendment.

The Committee divided on the amendment:

AYES (10)	
Burdett, J. C.	Davis, L. H.
Dunn, H. P. K.	Griffin, K .T. (teller)
Irwin, J. C.	Laidlaw, D. V.
Lucas, R. I.	Pfitzner, B. S. L.
Schaefer, C. V.	Stefani, J. F.
NOES (11)	
Crothers, T.	Elliott, M. J.
Feleppa, M. S.	Gilfillan, I.
Levy, J. A. W. (teller)	Pickles, C. A.
Roberts, R. R.	Roberts, T. G.
Sumner, C. J.	Weatherill, G.
Wiese, B. J.	

Majority of 1 for the Noes.

Amendment thus negatived; clause passed.

Schedule 1—'Prescribed activities of environmental significance.'

The Hon. BERNICE PFITZNER: Under 'Activities Producing Listed Wastes', clause 4(o), page 104, 'medical practice, not being the practice of pathology', why is pathology omitted in this group which produces the waste because pathology includes not only x-rays but also the taking of blood and tissue, disposal of needles, and so on?

The Hon. ANNE LEVY: Pathology practices must be licensed for their disposal of wastes, whereas ordinary medical practices do not. That is why pathology is treated differently from other medical practices.

The Hon. BERNICE PFITZNER: You are saying that waste from a pathology practice would be disposed of in a different manner?

The Hon. ANNE LEVY: It may be disposed of in the same way but they must be licensed for the disposal of their wastes because their wastes obviously can be highly infectious, toxic, hazardous and distasteful. Pathologists need to be licensed for disposal of wastes but other medical practitioners do not.

Schedule passed.

Schedule 2—'Repeals, amendments and transitional provisions.'

The Hon. ANNE LEVY: I move:

Page 112, after line 1—Insert paragraph as follows:

(w) by inserting after clause 10 of schedule 3 the following clause:

11. A reference in any other Act to the Water Resources Appeal Tribunal is, on and after the commencement of clause 2 of schedule 2 of the Environment Protection Act 1993, to be read as a reference to the Environment, Resources and Development Court Act 1993.

This is consequential to the establishment of the Environment, Resources and Development Court which will replace the Water Resources Appeal Tribunal.

Amendment carried.

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

Page 112, lines 3 and 4—Leave out "by inserting after section 28 the following section:" and insert—

"—

(a) by inserting after section 28 the following sections:".

There is a consequential amendment to that which I will need to refer to. I think it is fairly self-explanatory in that whilst there will be an undertaking in relation to costs there will not be an expectation of an offer of security in relation to damages.

The Hon. ANNE LEVY: The Government supports this amendment, which is consequential on changes made earlier.

Amendment carried.

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

Page 113, after line 22—Insert paragraphs as follows:

(b) by inserting in section 39(1) 'to give an undertaking as to the payment of' after 'costs or';

(c) by inserting in section 39(4) 'or an undertaking,' after 'further security,';

(d) by inserting in section 39(5) after 'security' (twice occurring) in each case, ', or the giving of an undertaking,'.

This amendment is consequential on that which has just been carried.

Amendment carried.

The Hon. ANNE LEVY: I move:

Page 113, after line 22—Insert the following:

Amendment of Development Act.

3A. The Development Act 1993 is amended—

(a) by inserting after the definition of 'document' in section 4(1) the following definition:

'Environment Protection Authority' means the Environment Protection Authority established under the Environment Protection Act 1993;

I do not need to speak at great length as to why there is a definition of the EPA, because subsequent amendments, be they mine, the Hon. Ms Laidlaw's or the Hon. Mr Elliott's, will need a definition of the EPA. This is surely non-controversial and I need not take up the time of the Committee.

Amendment carried.

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

Page 113, before line 23—Insert the following new clause:

Amendment of Development Act

3A. The Development Act 1993 is amended—

(a) by inserting after the definition of 'document' in section 4(1) the following definition:

'Environment Protection Authority' means the Environment Protection Authority established under the Environment Protection Act 1993;

(b) by inserting after section 36 the following section:

Reference of certain applications to Environment Protection Authority

36A. (1) where—

(a) an application for a consent or approval of a proposed development is to be assessed by a relevant authority; and

(b) the development involves, or is for the purposes of, a prescribed activity of environmental significance as defined by the Environment Protection Act 1993.

the relevant authority—

(c) must refer the application, together with a copy of any relevant information provided by the applicant, to the Environment Protection Authority; and

(d) must not make its decision until it has received a response from the Environment Protection Authority (but if a response is not received from the authority within a period prescribed by the regulations, it will be presumed, unless the authority notifies the relevant authority within that period that it requires an extension of time because of subsection (4) (being an extension equal to that period of time that the applicant takes to comply with a request under subsection (3)), that the authority does not desire to make a response, or concurs (as the case requires)).

(2) Where an application for a consent to a proposed development is referred to the Environment Protection Authority under subsection (1), the authority may, if it thinks fit, by notice in writing to the relevant authority, dispense with the requirement for a further application for a consent in respect of the same proposed development to be referred to the authority or responded to by the authority under that subsection.

(3) The Environment Protection Authority may, before it gives a response under this section, request the applicant—

(a) to provide such additional documents or information (including calculations and technical details) as the authority may reasonably require to assess the application; and

(b) to comply with any other requirements or procedures of a prescribed kind.

(4) Where a request is made under subsection (3)—

(a) the Environment Protection Authority may specify a time within which the request must be complied with; and

(b) the authority may, if it thinks fit, grant an extension of the time specified under paragraph (a).

(5) The Environment Protection Authority may direct the relevant authority—

(a) to refuse the application; or

(b) if the relevant authority decides to consent to or approve the development—to impose conditions determined by the Environment Protection Authority in accordance with the Environment Protection Act 1993.

(and the relevant authority must comply with any such direction).

(6) Where a relevant authority acting by direction of the Environment Protection Authority refuses an application or imposes conditions in respect of a development authorisation, the relevant authority must notify the applicant that the application was refused, or that the conditions were imposed, by direction under this section.

(7) Where a refusal or condition referred to in subsection (6) is the subject of an appeal under this Act, the Environment Protection Authority will be a party to the appeal;

This would make explicit statutory provision for referral to the EPA of a proposed development which constitutes a prescribed activity under the Bill. The Government has proposed an alternative approach to this matter which involves making the necessary arrangements for referrals through the Development Act regulations. This place, in general terms, tries to do things by legislation. At least the Liberal Party and the Democrats have in the past tended to do things by legislation rather than by regulation.

The latest draft of these regulations, dated 5 August 1993, contain two new schedules, 21 and 22, which list prescribed activities above and below the threshold limits defined in the first schedule to the Bill. Schedule 8, referrals and concurrences, provides that matters in schedule 21 are to be referred for direction and matters in schedule 22 are to be referred for a regard response.

The Government at one point recently contemplated making provisions specifically in the Development Act for referrals as I am now proposing, but ultimately elected against such a course of action. It is preferable to enshrine the referral procedure in legislation at the time the Environment Protection Bill is passed, rather than to wait for the promulgation of development regulations at a date yet to be determined later this year or early next year, the very point the Hon. Mr Griffin tried to make in relation to clause 29: if we are voting on something we would like to know what we are voting on.

Given the uncertainties that arise from the prospect of an impending election, I certainly believe and others believe that it is better to deal with this matter in the Bill and to support the proposed amendment. At this stage, the amendment I propose requires only referral of prescribed activities for a direction, and does not allow for matters below the threshold to be referred for a regard response.

The Hon. ANNE LEVY: The Government opposes this amendment. The Government has given an undertaking that activities of environmental significance under schedule 1 of this Bill will be the subject of referral under the Development Act initially to the Minister of Environment and Natural Resources and, once operational under this Bill, to the EPA. We oppose this amendment, because it is proposed that this referral, along with all other referrals under the Development Act, will be set out in the development regulations.

The latest draft of the development regulations provides under part V for referrals to various authorities. Various matters provided for under subclauses (1) to (7) of the

proposed new section new 36A (the amendment we are discussing) of the Development Act are clearly covered under the proposed provisions of sections 37 and 38 of the Development Act and the provision of part V of the development regulations.

Schedule 8 of the development regulations sets out clearly the referrals which are to occur. Clause 10 of schedule 8 provides that all the activities that are listed in schedule 21 of the development regulations, which repeat precisely the activities covered by schedule 1 of this Bill, are to be referred to the Minister of Environment and Natural Resources. As stated previously, this is an interim measure until this Bill can be proclaimed, when referrals will be to the EPA as a result of agreed changes to be made to the development regulations to coincide with the commencement of this Bill.

Clause 10 further provides that the power of the Minister of Environment and Natural Resources or subsequently the EPA in relation to these referrals is a power of direction. A power of direction allows an application to be refused or directions on conditions to be applied, and such directions must be followed by the relevant planning authority.

In addition to the matters which are covered by schedule 1 of this Bill, a further list of activities which have a lesser potential for pollution is required to be referred to the Minister and subsequently the EPA for comment. These matters are now listed in schedule 22 of the draft development regulations, which appropriately provide for the matters covered by this amendment. The effect of this amendment would be to make the mechanism for any changes in the process of referral to the EPA for directions involve a change to the Development Act rather than to the development regulations, and consequently we oppose the amendment.

The Hon. M.J. ELLIOTT: I make one more point about the amendments I have moved. I make quite plain that this amendment does not pick up the question of third party appeals. That is an issue that I will be chasing up in a subsequent amendment, but this does not relate to that matter.

The Hon. DIANA LAIDLAW: I indicate that the Liberal Party will support the amendment moved by the Hon. Mr Elliott. It is an attractive amendment. There are some matters that I would like to discuss a little further, but certainly at this time we are pleased to support the amendment, and we do so to keep this matter alive, because the arguments that the honourable member used as a basis for this amendment are ones that we have supported in other aspects of this Bill.

Amendment carried.

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

Page 113, before line 23—Amendment of Development Act—Insert the following paragraphs after paragraph *(b)* of proposed new clause 3A:

(ba) by striking out from section 38(2) 'The following' and substituting 'Subject to subsection (2a), the following';

(bb) by inserting after subsection (2) of section 38 the following subsection:

(2a) The assignment of a form of development to Category 1 or to Category 2 under subsection (2)*(a)* cannot extend to a particular development if that development involves, or is for the purposes of, a prescribed activity of environmental significance as defined in the Environment Protection Act 1993.;'

At this stage I am seeking to get the Minister to stand by his word in the other place in relation to these matters. To remind people what the Minister said, I quote him as follows in relation to section 38(2)(b):

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 what the Minister said and that is essentially the effect of this amendment to do what the Minister first said. Category 1 or category 2 developments will not be able to extend to a particular development if that development involves or is for the purposes of prescribed activity of environmental significance as defined in the Environment Protection Act.

The Hon. DIANA LAIDLAW: I move:

Page 113, before line 23—Insert new clause as follows:

3A. The Development Act 1993 is amended—

(a) by striking out from section 38(2) 'The following' and substituting 'Subject to subsection (2a), the following':

(b) by inserting after subsection (2) of section 38 the following subsection:

(2a) The assignment of a from of development to Category 1 under subsection (2)*(a)* cannot extend to a particular development if that development involves, or is for the purposes of, a prescribed activity of environmental significance as defined by the Environment Protection Act 1993.

The Liberal Party has viewed with considerable concern the moving feast in relation to these prescribed activities because, as we explained last night and the Hon. Mr Elliott has referred to this matter again, it was initially considered that most if not all of these prescribed substances would be category 3 developments. What has happened since is that we have found developments amongst these prescribed activities moved back to category 2 developments in the draft regulations, and in the most recent set of draft regulations in the Development Act they are classified as category 1 developments.

The Liberal Party thinks that that is absolutely unacceptable. Matters that are deemed to be prescribed activities under the Environment Protection Act should certainly not be category one developments under the Development Act and therefore not subject to public advice or the circulation of notices in a local area to neighbouring residences. The amendment that I move is that prescribed activities, if they are in the form of a development in category one, should not be dealt with as all other category one developments. So, the Government could determine that they could be publicly advertised and they could have meetings and they could be identified as category two or category three developments. In fact, I understand that, in relation to some of the prescribed activities that may involve light industry or motor repair stations or general industries and general industries zones, the Government may well move them from the latest draft, where they are in category one, back to the situation in the earlier drafts where they were in category two.

If they do not do so my amendment provides that they could automatically go to category three developments, because that is already provided for in the Development Act. There is one small difference between the amendment moved by the Hon. Mr Elliott and my amendment in terms of wording but a quite substantial difference in terms of impact, and the difference is that developments assigned to category one can be treated as category two developments for the purpose of prescribed substances, whereas the Hon. Mr Elliott is determining that all developments categorised in one and two should be treated as category three developments. The Liberal Party is unable to accept the Hon. Mr Elliott's amendment.

The Hon. ANNE LEVY: The Government certainly prefers the amendment moved by the Hon. Ms Laidlaw to that moved by the Hon. Mr Elliott. The strong point of the

Hon. Ms Laidlaw's amendment is that it will mean that all schedule one activities under the Environment Protection Act will require public notification, which is not achieved by the amendments of the Hon. Mr Elliott. So I will support the amendment of the Hon. Ms Laidlaw.

The Hon. M.J. ELLIOTT: As the Minister said, certainly the Hon. Ms Laidlaw's amendment achieves public notification for anything in the first schedule; however, it quite clearly denies third party appeals and one would not need to be a genius to work out that there is going to be an enormous amount of things in the first schedule finding their way into category two, because it seems that the Labor Government and any future Liberal Government do not believe in allowing the public to have any significant say in the legal process. That is an absolute outrage. That is what the Government's resistance is about and that is, unfortunately, what the resistance of the Liberal Party is about, too. Certainly, the Liberals' amendment is an improvement on the Government's position, but this continual denial by both Labor and Liberal to allow third party appeals on almost anything has really got out of hand and I think they should have a look at what is happening in the community and at the level of community outrage that is already building up due to the contemptuous way that the community is being treated by Government and bureaucracy at this stage.

Hon. M.J. Elliott's amendment negatived; Hon. Diana Laidlaw's amendment carried.

The Hon. ANNE LEVY: I move:

Page 113—Insert subparagraph as follows:

(b) by striking out subsection (6) of section 38 and substituting the following subsection:

(6) Except as otherwise provided by the regulations, the subject matter of—

(a) any notice required under this section; or

(b) any representations under this section; or

(c) any appeal against a decision on a Category 3 development by a person entitled to be given notice of the decision under subsection (12),

must be limited to the following:

(d) what should be the decision of the relevant authority as to provisional development plan consent;

(e) in a case where the Environment Protection Authority or a prescribed body is empowered to direct that the application be refused, or that conditions be imposed in relation to the development—what should be the decision of the prescribed body in response to the application;

There have been numerous submissions from the Conservation Council and the National and Environmental Law Association which have highlighted one matter in the Development Act which needs to be amended to give effect to the intention that EPA matters, which are part of a Development Act decision making on applications, will be dealt with in a single appeals system under the Development Act. The Government foreshadowed in another place that it would be proposing amendments to the Development Act to ensure that proper consideration can be given to environment protection issues during an appeal by a third party or an applicant when that appeal is heard by the Environmental and Resource Development Court under the appeal provisions of a Development Act. This amendment to the Development Act is amending section 38(6) to provide that, where an appeal occurs, the matters which are relevant to the decision of a prescribed body or the EPA giving directions to the relevant planning authority are relevant matters in the appeal.

I will not go on with the others, because there is another amendment coming in. As I say, it is to ensure that, where an appeal occurs, the matters that are relevant to the decision of the original body are relevant matters in the appeal.

The Hon. DIANA LAIDLAW: The Liberal Party supports this amendment.

Amendment carried.

The Hon. ANNE LEVY: I move:

(c) by striking out from section 38(7) 'submissions' and substituting 'representations';

Paragraph (c) is making minor changes to use the word 'representations' consistently and to remove references to 'submissions'. It is purely for consistency.

Amendment carried.

The Hon. ANNE LEVY: I move:

(d) by striking out paragraphs (a) and (b) of section 38(10) and substituting the following paragraphs:

(a) in the case of a category 2 development—the relevant authority may, in its absolute discretion, allow a person who made a representation to appear personally or by representative before it to be heard in support of the representation; and

(b) in the case of a category 3 development—the relevant authority must allow a person who made a representation and who, as part of that representation, indicated an interest in appearing before the authority, a reasonable opportunity to appear personally or by representative before it to be heard in support of the representation.;

Paragraph (d) is doing the same thing: it is making minor changes in wording, talking about 'representations' instead of 'submissions'. As I stated, it is purely for consistency.

The Hon. DIANA LAIDLAW: Will the Minister explain what she sees as the difference between 'submissions' and 'representations' in terms of content and any legal advantage or significance?

The Hon. ANNE LEVY: I understand that there was an error in the drafting of the Development Act: that in some places 'submissions' was used and in others 'representations' when the same thing was intended. It is making sure that 'representations' is used throughout rather than sometimes 'representations' and sometimes 'submissions'.

The Hon. DIANA LAIDLAW: So, the Minister does not see a difference in significance between the terms or the substance of the terms?

The Hon. ANNE LEVY: No, I am informed there is not, and the same was intended and understood, and it was by error that different words were used in different clauses.

Amendment carried.

The Hon. ANNE LEVY: I move:

(e) by striking out subsections (14) and (15) of section 38 and substituting the following subsections:

(14) An appeal against a decision on a category 3 development by a person who is entitled to be given notice of the decision under subsection (12) must be commenced within 15 business days after the date of the decision.

(15) If an appeal is lodged against a decision on a category 3 development by a person who is entitled to be given notice of the decision under subsection (12)—

(a) the applicant for the relevant development authorisation must be notified by the court of the appeal and will be a party to the appeal; and

(b) in a case where the decision of a prescribed body in response to the application for the development authorisation could be a subject matter of such an appeal—the prescribed body will be a party to the appeal.;

I would like to move this in an amended form. Subsection 15(b) should read:

In a case where the decision of the Environment Protection Authority or a prescribed body in response to the application for the development authorisation could be a subject matter of such an appeal—the Environment Protection Authority or the prescribed body will be a party to the appeal.

I understand that this amendment is amending section 38(14) to clarify the time limit for appeal rights of a person in relation to category 3 developments as 15 business days. As far as section 38(15) is concerned it provides that a prescribed authority or the EPA giving directions to a relevant planning authority will be a party to any appeal arising from the decision of the planning authority.

The Hon. DIANA LAIDLAW: There seems to be greater change than that suggested by the Minister, when reading this. I do not see any difference in the terms used for commencing an appeal; they both seem to say 'commence within 15 business days'. But the greatest difference seems to be that in the Act at present we provide an appeal under this section, whereas the Minister's amendment is confining it to an appeal against a decision on a category 3 development. That seems to be the basis for the clarification of the amendment.

The Hon. ANNE LEVY: It is clarifying drafting.

The Hon. DIANA LAIDLAW: That appeals are only available for a category 3 development, anyway.

The Hon. ANNE LEVY: Yes.

Amendment carried.

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

By inserting after paragraph (b) of the definition of 'environmental impact statement' in section 46(1) the following paragraph:

(ba) the extent to which the expected effects of the development or project are consistent with—

(i) the objects of the Environment Protection Act 1993; and

(ii) the general environmental duty under that Act; and

(iii) any relevant environment protection policies under that Act;

This and later amendments to section 46 enable specific reference to be made to the EPA as distinct from other prescribed bodies. They also broaden the definition of an environmental impact statement and will serve to emphasise the role of the EPA and the importance of the objects spelt out in the Bill in relation to EIS preparation and assessment.

The Hon. ANNE LEVY: The Government opposes the amendment because it is proposing to deal with various matters raised in the amendment by providing for them in the development regulations. As to an EIS involving an activity in schedule 1 of the Bill, the EIS will need to consider the extent to which the development is consistent with the matters which the EPA has to consider. The Government will ensure that these matters—the basic object of this Bill, the general environmental duty and relevant environment protection policies—will be prescribed as relevant matters pursuant to section 46(1)(b)(iii). The changes to the development regulations would be made to coincide with the commencement of this Bill so that they are not included in the current draft regulations. In other words, the Government proposes to deal with these matters by means of development regulations and not by legislation.

The Hon. DIANA LAIDLAW: I am willing to accept the amendment. It is a matter of having time to discuss and consider some of these matters. It is important that the matter be kept alive to consider it within the context of a number of issues. As I have said so often in the past, the Liberal Party would like to see matters addressed in legislation and not left to regulation.

The Hon. M.J. ELLIOTT: I am pleased to hear that. My point is that nothing here is terribly radical but it puts it in the legislation. The Minister seems to be saying that it will be done by regulation at a later time, but she did not put up any objection to the content of the amendment.

Amendment carried.

The Hon. ANNE LEVY: I move:

By inserting in section 46(4) 'consult with the Environment Protection Authority and' after 'subsection (2)(b),';

This amendment concerns consultation with the Environment Protection Authority.

Amendment carried.

The Hon. ANNE LEVY: I move:

By striking out paragraph (a) of section 46(5) and substituting the following paragraph:

(a) must, if the environmental impact statement is of a prescribed class, refer it to any authority or body prescribed in relation to that class of environmental impact statements;

It amends the section so that prescribed classes of environmental impact statements can be referred to prescribed bodies. This will allow the development regulations to prescribe that any EIS involving a schedule 1 prescribed activity of environmental significance under this Bill must be referred to the EPA. It gives power so that prescribed classes of EISs can be referred to prescribed bodies. The development regulations will then prescribe that any EIS involving a schedule 1 prescribed activity of environmental significance must be referred to the EPA.

The Hon. M.J. ELLIOTT: I support the amendment.

Amendment carried.

The Hon. M.J. ELLIOTT: I have realised that, not having the Development Act in front of me, there was indeed a mistake. Since we will be recommitting other clauses I will be seeking to recommit the clause that was just voted on. While there may be a need to send other EISs to various bodies it appears to me that the EPA should be seeing all EISs, although the amount of time spent on them may vary to some extent. The intention of the clause I had on notice was that all EISs should go to the EPA and that did not exclude them from going to other bodies as well.

In those circumstances, although I voted the wrong way, I realise the error of my way. I will be moving the next amendment standing in my name, which is consequential on it. I suppose it is at least a way of testing how the Opposition feel about the general notion that the EPA should see all EISs, which is the intention of my original amendment (e). I move:

(f) by striking out from section 46(8)(a) "and any" and substituting "by the Environment Protection Authority or by any";

As I said, this can act as a test case to see whether or not there is some support. If that is the case then at the Committee stage I will seek to recommit the earlier clause.

The Hon. ANNE LEVY: The Government opposes this amendment. The Government amendment which was accepted provided that all EISs which relate to a prescribed activity of environmental significance included in schedule 1 go to the EPA for comment and report. Certainly the Government intends this provision to be included in the development regulations so that they operate from the commencement of this piece of legislation. The effect of the amendment which the Hon. Mr Elliott did not move but which is the one we are now talking about is that all EISs would have to go to the EPA even if they are dealing with matters which would not normally be covered by the EPA's charter under this Bill.

The Hon. M.J. Elliott interjecting:

The Hon. ANNE LEVY: The EPA has a charter under this Bill. There are other bodies, such as the Native Vegetation Council or the National Parks and Wildlife Service,

which may be much more appropriate bodies for referral in some cases. It would seem an absolute waste of time to send things to the EPA for which it does not have the charter and which should quite properly be going to National Parks and Wildlife or to the Native Vegetation Council. My amendment, because of the regulations to be developed, would ensure that they go to the appropriate place for that particular EIS.

The Hon. DIANA LAIDLAW: It is important that we look back at earlier amendments passed to 46(5) but not necessarily for the reasons that the Hon. Mr Elliott has outlined. I was surprised that he leapt up quite so quickly because while I was slow to my feet I was considering the amendment that the Minister had moved to (5)(a). It seems to me that we now have a case where not all Environmental Impact Statements may be referred to anywhere, whether it be the Native Vegetation Council or the Environment Protection Authority, and the like. My preference is that the clause that we passed in March or April last year in the Development Act should stand and should not be amended either as the Government or the Australian Democrats want because I do not think that there is a need for every environmental impact statement to go to the Environment Protection Authority. Nor do I like the Minister's amendment that could possibly see some environmental impact statements not referred to any prescribed authority or body because the Government may not choose to prescribe such a statement. I will not be supporting the Democrat amendment on this matter but would like to see if we can recommit clause 46(5)(a).

The Hon. M.J. ELLIOTT: I will certainly not oppose 46(5)(a) if I cannot get the other amendments up. So if the Hon. Ms Laidlaw was hoping it would get knocked out and mine as well that will not happen. I think this is the appropriate time for me to reiterate the concern I have expressed so often through debate on the Development Bill and on many occasions in this place that the environmental impact assessment process in South Australia is a farce. It is an unmitigated farce and it has deteriorated under the current structures quite significantly.

Whereas before environmental assessment was being carried out by the Department of Environment and Planning we now have the lunatics in the Office of Planning and Urban Development supervising environmental assessment about which they have no knowledge whatsoever. I see the Hon. Terry Roberts smile because he has seen the OPUD people coming before the ERD committee. They have no knowledge whatsoever about the environmental assessment—none. What will happen now is that you will have parts of the EIS being done by the EPA, bits by the Native Vegetation Council, bits all over the place and who will be running the show—people with total, absolute ignorance about the environmental processes. Total ignorance.

It is an invitation for disaster. I can assure you that the concern about what is happening in the environmental process in South Australia is not only felt by environmentalists. I have been in discussions in recent months with some of the leading developers in this State who also realise that we are in terrible trouble in relation to the way the process is working. Somebody, somewhere, with environmental knowledge must play a linchpin role in environmental assessment. It does not mean that that body gives the yea or nay for approval for projects. By all means let OPUD and the Minister responsible for OPUD do that but the environmental assessment process itself has to be made more coherent which it is not.

In fact, it has been made far worse. The situation has been grim for 10, probably 15 to 20 years. Under the current structures set up by the Development Bill and the EPA Bill it is an absolute and unmitigated disaster. The problems we have had in terms of getting projects up I guarantee will now get worse and not better over the next couple of years. Unfortunately, bureaucrats working in employer organisations and bureaucrats working in the Government departments have colluded to produce something which will be an absolute disaster. I do not think it is unreasonable that a body such as the EPA should at least see all environmental assessments.

I have previously criticised the EPA for being a very narrow body. It is far narrower than the EPAs in the other States. It is a very narrow body and effectively what we have created is a merger of the Noise Branch, the Air Quality Branch and the Water Quality Branch and called it an EPA. That is not an EPA, it is a farce, but that is what we have got. It has been dressed up rather beautifully and has been sold as this wonderful new direction for South Australia. It is no wonderful new direction at all; it is part of a new, disastrous direction that we are taking and if we do not wake up to ourselves quick smart we will have more trouble than we have had in recent times with development.

As I said, I can assure you that the concerns I am expressing are not just those of the people in the environment movement; they are concerns shared by leading developers in this State as well. They are also coming to a view that we are looking for a radical overhaul. I guess this could be described as a radical overhaul but it is a radical, destructive overhaul.

It appears that I lost the argument badly on the Development Bill and it looks as if it will happen again. I do not know how long it will take the representatives of the people in this State to wake up to the driving force behind the problems confronting us.

The Hon. DIANA LAIDLAW: I understand that the Hon. Mr Elliott said that if I did not support him on this matter he would not be prepared to look again at recommittal of section 46(5).

The Hon. M.J. Elliott interjecting:

The Hon. DIANA LAIDLAW: Then I will change my mind and support the amendment.

Amendment carried.

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

(g) by inserting in section 46(9)(c) 'the Environment Protection Authority or by' after 'provided by';

This amendment relates to the matters that we have just discussed.

Amendment carried.

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

(h) by inserting after paragraph (c) of section 48(8) the following paragraphs:

(ca) the objects of the Environment Protection Act 1993; and

(cb) the general environmental duty under the Environment Act 1993; and

(cc) any relevant environment protection policies under the Environment Protection Act 1993; and;

These amendments serve to reinforce the objects of the Bill and policies produced thereunder in relation to decisions of the Governor on major development proposals.

The Hon. ANNE LEVY: Again, the Government opposes this as being unnecessary. What the honourable member is proposing parallels the Government's intention to include these matters in the development regulations as allowed by the current section 48(8)(a). Specifically, it has been agreed that the objects of Bill—the general environmental duty and relevant environmental protection policies under this Bill—will be matters to which the Governor must have regard in making a decision under section 48.

Amendment carried.

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

(i) by striking out from section 85(15) all words after 'under this' and substituting the following:

section—

(a) to provide security for the payment of costs that may be awarded against the applicant if the application is subsequently dismissed;

(b) to give an undertaking as to the payment of any amount that may be awarded against the applicant under subsection (16);

This amendment is consequential on one that has already been passed in relation to security for the payment of costs.

Amendment carried.

The Hon. ANNE LEVY: I move:

(h) by striking out from section 86(1)(b) the passage in brackets and substituting 'subject to the limitations imposed by that section'.

This amends section 86 to remove the restriction of the scope of appeals to the Environment and Resource Development Court consistent with the change made earlier to section 38 enabling the appeal to cover environment protection matters, for example.

Amendment carried.

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

Page 114, lines 4 and 5—Leave out subclause (5).

The Government attempted to do something here that it did not do in the Marine Environment Protection Act. Under that Act everybody was required to be licensed. All had to go through a licensing procedure and a public notice was required for all those licences. In this case it is only in relation to new operations as distinct from those already in existence; that is what the Government is trying to do in subclause (5). I do not believe that is acceptable. It was not acceptable in MEPA, and I do not believe it is here. In other words, public notice will be required for all.

The Hon. ANNE LEVY: The Government opposes the deletion of subclause (5). In discussing this matter I think we should consider that 7 000 authorisations can be affected. If we delete this subclause, the smooth transition from existing licences under various environment protection Acts to new environmental authorisations under this Bill would be significantly disrupted. There could not be a smooth transition from the old to the new—and we are talking about 7 000 of them, not just a handful.

To set up a procedure appropriate to issuing an initial environmental authorisation for the many thousands required to be issued at the time of the commencement of the Bill would cause enormous delay in the commencement time and considerable uncertainty for industry as they would have to go through the whole procedure. The initial round of environmental authorisations must be issued to coincide with the beginning of this Bill. Because of the different forms of licensing under different Acts and the change to a single integrated licence, it is not possible for any current licences to be continued when this Bill commences.

The other clauses of the transitional provisions provide that the EPA must grant work approvals and licences to enable persons to carry on activities lawfully carried on immediately before the commencement of this Act. In other words, anything that has been carried on lawfully before the commencement of this Act must get works approvals and licences from the EPA.

In addition, where a person would be prohibited from carrying on an activity on the commencement of this Act, where a person who is lawfully carrying on something before the commencement which will be prohibited once the Act comes into operation, the EPA must grant that person an exemption to allow the carrying on of that activity. So, while the EPA will—

The Hon. M.J. Elliott interjecting:

The Hon. ANNE LEVY: Can't I speak? You can have your turn later. Thus, while the EPA will have powers to alter the conditions of licences in order to bring them into conformity with the requirements of this Bill, it will not have the power to refuse licences, works approvals or exemptions which are applied for. So, it would be a pretty fruitless exercise to ask the public to put in all these forms. It would be a fruitless exercise to ask for public comment in a process where the EPA is obliged to give environmental authorisations. Why ask for public comment when the EPA must grant exemptions and approvals to current activities under the new Act? This does not mean that the public will not know about it, because all the EPA authorisations will have to go onto the public register, but to call for public comment when the EPA will have no discretion as to what it does in these transition situations seems quite a fruitless exercise and could well irritate people who are asked to comment on something where the outcome is predetermined.

Certainly, there could be some limited benefit in receiving public comment on appropriate conditions for some licences, but this is seen as being far outweighed by the administrative load which would be generated by requirement for public notification of over 7 000 current licences and approvals.

The Hon. DIANA LAIDLAW: I am persuaded by the Minister's arguments and will not support the amendment.

The Hon. M.J. ELLIOTT: With respect, most of the Minister's arguments were totally irrelevant to the clause.

The Hon. Diana Laidlaw interjecting:

The Hon. M.J. ELLIOTT: I hope you would not be persuaded by an irrelevancy. That would be a matter of some concern; the honourable member has done so well in this Bill so far.

The Hon. Diana Laidlaw interjecting:

The Hon. M.J. ELLIOTT: Oh well, you have to practise these things. The Minister really did duck the comment that I made earlier that the Marine Environment Protection Act required notice in relation to all licences that were granted, despite the fact that they had exactly the same dispensations as this Act allows.

The Hon. Anne Levy interjecting:

The Hon. M.J. ELLIOTT: Several hundred of them; there are quite a few.

The Hon. Anne Levy: Certainly not thousands.

The Hon. M.J. ELLIOTT: But you are talking about several hundred in relation to a small section of what has become the EPA; in relative terms it is not a greater obligation. In the first case the public notice can quite clearly carry with it the rider that this licence has to be granted so that a person knows, if they are going to respond, how their response is likely to be treated. Talking about them being

frustrated is a load of nonsense. It is not unreasonable for the public to be informed as to what works approvals, licences and exemptions are to be granted. I do not think that is unreasonable, but then I happen to believe in keeping the public informed, and to retain this clause is basically to say that you want to keep the public in the dark.

Amendment negatived; schedule as amended passed.

Long title.

The Hon. ANNE LEVY: I move:

Page 1—
Line 11—Leave out '1990 and', and insert '1900'.
Line 12—after '1993' insert 'and the Development Act 1993'.

Amendments carried; long title as amended passed.

Bill recommitted.

Clause 3—'Interpretation'—reconsidered.

The Hon. ANNE LEVY: I move:

To change the conjunctions at the end of each paragraph from 'and' to 'or'.

Yesterday, in discussing the definition of the word 'pollutant', a new definition was accepted by the Committee which requires grammatical correction. I understand that the conjunctions at the end of each paragraph should be changed from 'and' to 'or'.

Amendment carried; clause as amended passed.

Clause 13—'Functions of authority'—reconsidered.

The Hon. DIANA LAIDLAW: Last night I moved an amendment, which was defeated, whereby in terms of the functions of the authority (13)(1)(c) would have read, 'to contribute to the development of and, where appropriate, implement national environment protection measures'. I have received advice that, following the decisions of this place to oppose and remove clause 29, it is necessary to make the qualification 'where appropriate' in clause 13 in terms of the functions of the authority. It would tidy that up in respect of the decision last night to oppose clause 29.

The Hon. M.J. ELLIOTT: The situation always get more complex when you are trying to patch things up. It would seem to me that there is no difficulty with the EPA being involved in the development of national environment protection measures and I would have thought the obvious amendment at this stage would be to simply remove the words 'and implement'. It would seem to me that 'to contribute to the development of national environment protection measures' would be consistent with clause 29 being removed. I do not think anyone has expressed any difficulty with the EPA being involved in the development of national environment protection measures. So, I move: The words 'and implement' be struck out from clause 13(1)(c).

The Hon. ANNE LEVY: I most strongly oppose this change. I fail to understand any logic which suggests that the EPA amongst its functions is to contribute to the development of national environment protection measures but not be allowed to do anything about implementing them. To me that seems to be utterly absurd and I completely oppose this amendment. We set up an authority and tell it that one of its jobs is to contribute to development of national policies; but when they have been developed it is not allowed to take part in implementing them. I think it is utterly ridiculous.

The Hon. DIANA LAIDLAW: It is not ridiculous. The Minister of Transport Development who is sitting beside the Minister could easily relate that we do a lot of contributing to national policy in terms of development in transport, whether it be the NRC or road cost charges. It does not mean, because we are contributing to the development of policy, that necessarily we will implement all those policies. But we see it in the State's interest.

The Hon. Barbara Wiese: We do where there is a role for a State agency.

The Hon. DIANA LAIDLAW: Yes, but we contribute to development of policy through the national rail and road commissions. Perhaps it was a diversion to include the Minister at this stage. As a matter of principle, Ministers and departments do contribute to a whole range of national functions, but it does not always mean that one is going to implement those functions. It is quite correct, as the Hon. Mr Elliott states, and as I stated last night when speaking to this and to clause 29, that the time and place to discuss the implementation of these national environment protection measures is when we see the complementary legislation and when we have gone through the process of the working party which is to look at this legislation. It is silly to be talking about implementing plans when we have not even seen the initial legislation, let alone the plans themselves. I support the Hon. Mr Elliott's amendment to delete the words 'and implement'.

Amendment carried; clause as further amended passed.

Clause 88—'Powers of authorised officers'—reconsidered.

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.

This results from the discussion we had in Committee last night about the extent to which authorised officers should be able to exercise the power to enter or inspect a vehicle, and I made the point that I thought that it was over the top to give such a wide power in relation to all vehicles. The Minister responded that there may be waste vehicles or other vehicles which ought to be the subject of some inspection or scrutiny and indicated that if a suitable formula could be devised she would give consideration to accepting it. The formula which I now propose is that the authorised officer may not exercise the power to enter or inspect a vehicle except in relation to a vehicle of a class prescribed by regulation, or in circumstances where the authorised officer reasonably suspects that an offence has been or is about to be committed in relation to the vehicle, or that something may be found in or on the vehicle that has been used in or constitutes evidence of a contravention of this Act. I do not altogether like the regulation provision, but I acknowledge that it is preferable to the very broad provision presently in the Bill. It does enable us as a Parliament to scrutinise the classes of vehicle in respect of which the authorised officer may be able to exercise the power, and I think that that provides a good sort of halfway provision which I hope satisfies the Minister and I hope it largely satisfies the concerns which I expressed.

The Hon. M.J. ELLIOTT: It appears to me on the surface of it, and I guess I will wait to hear the Minister's response, that this does allow us to talk about waste vehicles or even vehicles carrying freight generally. I think all freight carrying vehicles could be subject to being stopped because of the fact that they can be carrying substances considered to be dangerous.

The one class of vehicle that you are likely not to include in your regulations, I suppose, is the ordinary automobile, unless you have reason to believe that perhaps someone is taking off with some evidence, particularly paperwork, which is then covered by paragraph (b). Can the Minister think of a circumstance that is not adequately covered by this suggested amendment? On the face of it it looks as though it picks up what the Government was hoping to do and seems to have addressed the Opposition's concerns at the same time.

The Hon. ANNE LEVY: I am not an expert in this area, but it does seem to me that one aspect that it might not pick up is testing vehicles for non-visible emissions. If a vehicle goes down the street belching black smoke, one can certainly suspect that there is a contravention of this Act, if there are rules about the amount of carbon you can have in your exhaust fumes.

The Hon. M.J. Elliott: So, you are talking about spot checks on car emissions?

The Hon. ANNE LEVY: This would certainly enable any car belching an inordinate amount of black smoke to be stopped and tested, but it would not enable anyone to do checks as to whether non-visible pollutants such as nitrous oxides and many colourless (and hence not readily detectable) pollutants were coming from a particular vehicle, because that would require a complicated test. An authorised officer would have no reason for suspecting that it was belching out incredible amounts of nitrous oxides. I stress that I am not an expert in the area, but it seems to me that the original provision would enable vehicles (and this of course is limited to vehicles) which can be so pollutant to be checked not only where there is sight and sound, which is readily apparent, but also checked for non-visible pollutants, which the amendment here would prevent. It is that sort of thing.

The Hon. M.J. ELLIOTT: If the Government is going to start spot checks on vehicle exhausts, checking for other pollutants, I make two comments. It is probably something that sometime will happen, but I think it would be nice if, when it does happen, it happens within a set of prescribed circumstances.

Members interjecting:

The Hon. M.J. ELLIOTT: Yes. I do not have any problems with the Government saying it would like to pick that up.

The Hon. Anne Levy interjecting:

The Hon. M.J. ELLIOTT: No. If that decision was made, it is something that I would like to see come back to the Parliament first by way of an amendment. I was concerned about whether there were any activities which they are currently undertaking or, it is envisaged, which under the new Act they would be prevented from carrying out. If there is a glaring case of that, this amendment must be looked at further. The Minister has given a good example in terms of something we might entertain in the future, but it is something I would like to entertain after it has been considered in this place, because it would be a further—

The Hon. Diana Laidlaw: I didn't think you were going to be in this place.

The Hon. M.J. ELLIOTT: I am talking about the great building as a whole, not this particular Chamber. It is likely that this Bill will go to the Lower House and return. In those circumstances I will support the amendment moved by the Hon. Mr Griffin. I am still open to persuasion, but I think that it caters for what the Government says it intends to do and seems to overcome the major objections that the Opposition first expressed. I am willing further to consider the amendment if there is a real problem.

The Hon. Anne Levy interjecting:

The Hon. K.T. GRIFFIN: I appreciate the points the Hon. Mr Elliott has made. I agree with him that, if we are to embark upon a regime of random checking of vehicles, that is something which ought to come back as a legislative scheme to be considered by the Parliament, as did random breath testing and as did—

The Hon. Anne Levy interjecting:

The Hon. K.T. GRIFFIN: I know it is a sensitive issue. The Minister said, 'Perhaps it did not cover that.' If the Minister is not promoting it, I think we are on safe ground in saying that this addresses the issue to which I referred in the debate last night.

Amendment carried; clause as amended passed.

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

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

Page 71, lines 10 and 11—Leave out subparagraph(ii).

This is an amendment which is necessary to achieve consistency. We amended clause 61(4) by deleting paragraph (b), that is, the notification to a new owner or occupier, and I think for the sake of consistency it is important to amend this clause.

The Hon. ANNE LEVY: The Government is very happy to accept this together with the next two amendments.

Amendment carried; clause as amended passed.

Clause 101—'Clean-up authorisations'—reconsidered.

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

Page 76, lines 16 to 18—Leave out paragraph (d) and substitute 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 will bring it into line with other amendments we have made regarding the obligations upon persons, other than authorised officers, who must when exercising particular powers produce their authority rather than waiting to be asked for it.

The Hon. ANNE LEVY: We accept this amendment.

Amendment carried; clause as amended passed.

Clause 102—'Registration of clean-up orders or clean-up authorisations in relation to land'—reconsidered.

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

Page 77, lines 30 and 31—Leave out subparagraph (ii).

This amendment is similar to the amendment that has just been carried in relation to clause 95.

Amendment carried; clause as amended passed.

Schedule 2—'Repeals, amendments and transitional provisions'—reconsidered.

Clause 46(5)(a)—reconsidered.

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

That new 46(5)(a) be deleted.

Amendment carried.

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

(e) by inserting in section 46(5)(a) "the Environment Protection Authority and" after "to";

Amendment carried; schedule as further amended passed.

Bill read a third time and passed.

FISHERIES (RESEARCH AND DEVELOPMENT FUND) AMENDMENT BILL

Adjourned debate on second reading.
(Continued from 26 August. Page 304.)

The Hon. PETER DUNN: This Bill has had a rather chequered career. It has gone from being opposed to one we can agree with, having had some more consultation with the South Australian Fishing Industry Council. However, we will agree to it only on the basis that there is a small amendment at the end of it. The Bill itself is fairly clear in that it deals with the research and development funds that the Department of Fisheries is now able to administer. Those funds come from several sources: the Federal Government, the State Government, and from the industry.

The whole of the fishing control is changing under the new plans for integrated management. I agree that it is a solution to a very difficult problem. The fishing industry has never been easy to administer. Because it is dispersed around our very long coastline, it is often difficult to get the parties together.

Under this new scheme of integrated management, the industry, whether abalone, prawn, rock lobster or whatever, will manage itself in a sense, in conjunction with the Fisheries Department and, I presume, SARDI or the research and development component of the fishing industry. It is not an industry that will ever run out of the need for research and development funds. It is like agriculture. It will constantly and always need research and development funds, and I believe that, under integrated management, the industry will be able to provide more funds for that research and development. It is not only research and development; enforcement and administration are part of the equation.

I would hope administration becomes less and less and research and development becomes more and more, and enforcement I guess is somewhere in between. The enforcement will only take place where industries are fishing a very highly priced commodity. The perfect commodity for that is abalone which is in excess of $100 a kilo today, as I understand it, so it is a very prized possession. It will certainly bring in a lot of money. So, you get a lot of unlicensed people who are illegally harvesting abalone. There is a requirement to enforce the law and that requirement costs money. The industry has agreed to that, and that becomes a component of this integrated management, and the funds will come from integrated management.

This has not been totally accepted by the industry. In fact, the Minister, in his report to the Parliament in the second reading debate, emphasises that commercial and recreation sectors of the industry have expressed a view that they would not like to see research and development funds used as a common fund to support all department activities. I have an amendment that I will move later on that should cure that. I float it to the Minister at this stage. The industry expresses some concern at the use of these funds. It wants to have some control over how it distributes these funds.

The Minister goes on to say that this Bill will mean there will be less of a draw on consolidated revenue. That is fine, but members must remember that the fishing industry is an industry owned by all, unlike farming, where there is a designated patch of ground with a boundary fence around it and it has become accepted that we all own that patch of dirt. Therefore, what we raise off that is legitimately ours. However, fishing is different. Fish are mobile, although they do have defined areas in which they tend to congregate. They do move around. The fishing industry by its very nature cannot have a boundary fence around it, so it is very difficult to say that that fish is yours and this fish is mine. Because of that, I believe it is an industry which is publicly owned, but we do allow people to harvest that product. That harvesting is the licensing of fishers.

We license the fishers to harvest this product for us to enjoy on our tables. It is a complex issue. By its nature it requires an input from the public. If the public are to receive the benefit of this protein, I believe that a certain amount of consolidated revenue should be used.

I hope that the Minister is not opting out of the responsibility for the Government to administer the control of the fishing industry, particularly research and development. Research and development represents a very important part of the fishing industry, not perhaps in generating or breeding new or better types of fish but in carrying out research as to where the fish are and the amount that we can harvest—that is, whether we can increase or decrease the take. There is a requirement to understand how much we can take. I believe that in the past few years we have overfished a number of the components of the fishing industry in this State.

If it is public property, in my opinion, the Government should provide a considerable amount of the funding. I think that is recognised by the Federal Government because it provides—and I am not sure how much it is; I have the figures, but I cannot quickly look them up—part of the percentage of the total of the industry back to the State Government for research and development, and that is right and proper.

The burgeoning of research and development facilities in this State is proving to be a problem. I served on the Public Works Standing Committee when we approved the research laboratories at West Beach. I opposed them because they are in the wrong place. It is as plain as the nose on anybody's face that to put a research facility for the fishing industry in Adelaide is wrong because of the pollution. Adelaide pours a fair amount of effluent into the Gulf St Vincent, and that will affect any research and development that we have.

In my opinion, it should have gone to the biggest fishing village in Australia, which is said to be Port Lincoln. The arguments at the time were that the universities were not there. I find that unusual. Had the facility been set up in Port Lincoln, clear, fresh, unpolluted water could have been obtained off the end of almost any pier in Port Lincoln harbor. However, we have had to run a 3.5 kilometre pipe out to sea from West Beach to find the weed line in order to get some clear water. That cost about $4.5 million, which was quite silly.

Originally we envisaged a research and development project at West Beach costing about $6.5 million, but that has blown out to about $17 million or $18 million because of several factors. One is that it is under the control of the West Beach Trust, and another is that it is just off the end of runway 2-3 at Adelaide Airport and it had to have a height restriction applied to it. The fact that it was under the control of the West Beach Trust meant that it had to have some public component attached to it like a theatre, which cost $3.5 million. I understand that the cost is being added to the industry, which has to pay it back at some stage. I have never heard such nonsense. If a project costing $18 million or $19 million had been built at Port Lincoln, it would have been a major project and a great asset to that area. Instead, it is at the end of runway 2-3 of Adelaide Airport. As likely as not,

in a few years, when the runway is extended, it will probably have to be uprooted and put somewhere else.

So, even though I objected to it and expressed my objection in the Public Works Standing Committee, I was overridden. It has been proven that I was right. However, that is not unusual, because this Government has made an odd mistake or two in its time. It is continuing to make them, and that will continue as long as it is in Government, and that is why the public is calling for it to go to the people.

The Bill allows SAFIC—and it has always done this—to deduct a fee from fishing licences to provide for the running of that body. In other words, the union dues are taken from the licence fees. It is a fairly rare thing to do that. The Farmers Federation cannot do that: it has to go to its own members and obtain a fee of about $200 from each one of them to run the South Australian Farmers Federation. However, SAFIC has this luxury of having it taken out of the licence fees. I think it has to happen that way because traditionally fishermen are very hard to find to get those funds. They are a bit like unionists: they will not pay unless they are forced to. So, we finish up with the Russian syndrome, 'You vill do it and you vill like it.' A peak body such as SAFIC needs to be funded. It is quite a good body and it does a good job. It has always given me good advice whenever I have approached it. All in all, I think we should allow this practice to continue. It is against my principles and those of the Liberal Party, but it is in this Bill, and under the circumstances I will accept it.

In summary, a considerable level of funding will come from the integrated management system. For example, the abalone industry is prepared to put up $1.4 million per year to run its industry. That is a pretty significant sum of money. I do not know of any other industry with 36 licences in it that would provide that sort of money to run itself. If that is the case, it ought to have the majority of the say. In the figures that I received from SAFIC dealing with where the funds come from, whether they are Federal, State or from the industry itself, I note that by far the largest amount has been provided by the abalone industry.

If that is the case, it ought to be able to have the majority of the say—if not the majority, it ought to be able to have the ability to say to the Minister and to the research and development people, 'We would like it to go in this direction.' If the Minister and the research officers cannot agree with that, we will have a problem. However, my amendment will do just that: it calls for agreement between the Minister or his or her representative, the research and development component and the industry itself. I do not think that is too much to ask. We are always having reconciliation. What did Hawke have with the unionists? He had some agreement. What was it called?

The Hon. T.G. Roberts: An accord.

The Hon. PETER DUNN: An accord; that's right. If the union movement can have an accord, surely the fishing industry ought to be able to have an accord with the Minister and the research officers as to where it is heading. If the industry is contributing such a large sum of money, it should have the right to say that. I believe that my amendment will improve the Bill, and it will work. I hope the Minister agrees to it. When I mentioned this to the Minister of Primary Industries (Hon. Terry Groom), he rose three inches off the carpet, but that was only because he was trying to eyeball me. I am not very tall, but he is even shorter. The fishermen have asked for this amendment; they have agreed to it; and they think it is a good idea. I hope the Minister is listening to what I am saying, because I think she should accept it.

However, the Bill is not very long, but I think it has important ramifications for the future. The industry is important in South Australia; we have a bigger coastline per head of population than any State other than WesternAustralia. On that basis, any legislation dealing with the fishing industry is important to this State, because we have emerging industries such as tuna, abalone and rock lobster farming. All these are in their very embryonic stages now. I believe that a fishing industry will develop inland as well and, because of that, research will become more and more important to the industry. I believe that the Bill needs to be passed and, if so, it needs to be passed with the small amendment that I suggest.

The Hon. BARBARA WIESE (Minister of Transport Development): I thank the Hon. Mr Dunn for his contribution and indicate to members that I understand that the Minister may wish to discuss some further issues, so we will not go into the Committee stage of the Bill today.

Bill read a second time.

APPROPRIATION BILL

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

ADJOURNMENT

At 6 p.m. the Council adjourned until Tuesday 12 October at 2.15 p.m.