

that there could be some satisfactory development of pleadings in the local court without making it unduly complicated but in an attempt to limit the parameters of a case and assist in early resolution.

The Law Society also makes the point that the fee structure for the present local court of limited jurisdiction is quite inadequate, if it is to be applied also to those cases up to \$20 000. I would agree with that. I think one of the difficulties in the local court of limited jurisdiction is that, where greater levels of responsibility are required, the costs which may be awarded against a party or recovered from a client should reflect adequately the value of the work which is done.

Of course, it should be remembered that, without the system of pre-trial conferences, and even on the present scale of fees, if the matter does run to trial in the local court of limited jurisdiction rather than going to a pre-trial conference, as it would in the District Court, the costs to the litigant may well be higher in the Local Court than in the District Court. So, some attention needs to be given to pre-trial conference procedures and developing those in the local court of limited jurisdiction; some attention needs to be given to pleadings; and some attention needs to be given to the question of an adequate costs scale.

The Law Society draws attention to the fact that in New South Wales magistrates have jurisdiction up to \$5 000 and District Court judges have jurisdiction up to \$20 000. In this State, of course, District Court judges have very much wider jurisdiction than that. In Victoria, magistrates have jurisdictions up to \$20 000 in non-personal injury matters, but only up to \$5 000 in personal injury claims. In Queensland, magistrates have jurisdiction up to \$5 000; the small claims jurisdiction is limited to \$1 500; and District Court judges there have jurisdiction up to only \$40 000. So, our magistrates will be given a fairly significant increase in jurisdiction which is way ahead of what has occurred in other States. That is not an argument against it, but it does reflect a significant change across Australia which is, in fact, occurring in this State.

So, there are some reservations about the increases, but the Opposition has taken the view that, if there are adequate rights of appeal (and I believe there are) and if attention can be given to the matters to which I have referred to ensure that every opportunity is taken to bring pressure to bear on the parties to settle matters, we should support this increase. I would like to know from the Attorney-General whether the Government has in mind any initiatives with respect to any of those matters to which I have referred.

The Hon. TREVOR CROTHERS secured the adjournment of the debate.

#### ABORIGINAL HERITAGE BILL

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

The Hon. J.R. CORNWALL (Minister of Health): I move: That this Bill be now read a second time.

I seek the indulgence of the Council to have the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

#### Explanation of Bill

The aim of this Bill is to provide for the effective protection of Aboriginal heritage in South Australia.

Protection for Aboriginal heritage is currently afforded under the Aboriginal and Historic Relics Preservation Act

1965. This legislation is now outdated and its European relics component has been superseded by the South Australian Heritage Act 1978.

Equivalent Aboriginal heritage protection legislation is considered essential. In particular, the 1965 Act does not give adequate protection to all sites of significance to Aboriginal heritage. It gives no protection at all to sites of significance to Aboriginal people which are natural features of the landscape (unless formally declared to be a prohibited area or historic reserve); nor does it allow sufficient input by Aboriginal people.

In 1979 a new Act, the Aboriginal Heritage Act, was assented to by Parliament. It was not proclaimed, however, largely because of some perceived inadequacies in its provisions. When the Labor Party assumed office in late 1982 it brought with it a commitment to prepare and introduce a new piece of legislation, rather than an amended version of that passed in 1979. To this end, an extensive program of consultation with Aboriginal communities throughout South Australia has been undertaken. Consultation has also taken place with a range of Government and non-government interests in mining, pastoral and Aboriginal administration fields.

#### Definition of Sites and Objects

The Bill provides blanket protection to all sites and objects of significance to Aboriginal heritage, but offsets this by providing for ministerial exemptions in certain areas where certain activities are justified. The alternative approach to this is to provide strong but selective protection to particularly important sites or objects. Whilst superficially attractive this latter (selective) approach is all but impractical because of the huge number of sites and objects throughout the State. It would be enormously expensive and time-consuming to try to identify, document and register (for protective purposes) all important sites and objects. Significant sites and objects would undoubtedly be destroyed or damaged through the course of this exercise, simply because they had not, up to that point, been identified and registered. The provision of blanket protection to all sites and objects of significance avoids this difficulty, whilst acknowledging the fact that not all sites and objects warrant ongoing protection. Regulations will be able to provide that particular sites or objects or classes of sites or objects come within or are excluded from the definitions of Aboriginal site and Aboriginal object for the purposes of the Bill.

#### Archives and Register/Information

Known information on Aboriginal heritage will be stored in central and local archives. A Register of Sites and Objects will be contained in the central archives which will include records of sites and objects determined by the Minister to be sites or objects of significance to Aboriginal heritage. In legal proceedings the Minister's determination will be taken as final.

#### Aboriginal Tradition

A proportion of information relating to Aboriginal heritage is sacred or secret and its dissemination would be contrary to Aboriginal tradition. As a result it is an offence under the Bill to divulge information about any Aboriginal site, object or remains or about Aboriginal tradition contrary to Aboriginal tradition. Furthermore, access to information contained in the archives and on the Register will generally be subject to the approval of traditional owners.

#### Consultation

Advice on the significance of sites and objects and how these should be protected will be provided to the Minister by Aboriginal people. The Bill establishes the Aboriginal Heritage Committee comprised entirely of Aboriginal people to represent the interests of all Aboriginal people in

advising the Government on the development of means for preserving their heritage. This is in accordance with the wishes of Aboriginal people who made it clear during the Bill's development that they wanted to have a major input into decisions on preserving their heritage. They wished this input to be at the local level, but saw value in a coordinating central committee to consider matters of State-wide significance. Consequently, the Bill provides that the Minister must, before contemplating certain action under the legislation, consult with Aboriginal traditional owners of a site or object as well as any relevant Aboriginal organisation and the Aboriginal Heritage Committee.

The Minister and/or the committee may also seek advice from other people. Government archaeologists, anthropologists and historians will coordinate advice on the scientific or historical significance of sites and objects, since, in some cases, these may not be of interest to Aboriginal people. Alternatively, subcommittees to the committee will be established if necessary to facilitate communication with, for example, mining and pastoral interests.

#### Determination

People proposing to undertake a development that may result in damage to an Aboriginal site or object, may, if they choose, seek a determination from the Minister as to whether Aboriginal sites or objects are involved. The Minister must then provide sufficient information of any relevant entry on the Register of Sites and Objects and any site or object that should be placed on the Register to enable a developer to avoid damaging the site or object. However, the Minister must not disclose the exact location of the site or object if such disclosure is considered to be detrimental to the preservation of the site or object or contrary to Aboriginal tradition.

A consequential amendment to the Planning Act 1982 is made to ensure that a determination is sought in relation to prescribed areas or activities (by regulation under the Planning Act). For example, it may be considered desirable that all subdivision proposals or all development proposals in a particular hundred (in which an Aboriginal site is known to occur) be submitted to the Minister responsible for Aboriginal heritage for a determination. The alternative approach of establishing the Register of Sites and Objects as a 'public' file (as for the Register of State Heritage Items under the Heritage Act 1978) is not acceptable in view of potential vandalism and/or access to sacred or secret information contrary to Aboriginal tradition.

#### Excavation

The Bill also provides that the authority of the Minister must be obtained (and the Minister must consult with Aboriginal people and/or the committee) to undertake excavation in relation to an Aboriginal site. Alternatively, the Minister, having given reasonable notice to the owner and occupier of land, may authorise entry to such land to establish the existence of sites, objects or remains. The Minister is required to make good any damage done to the land by such a process.

#### Restricted Access

In some circumstances the Minister may consider it necessary, for the protection of Aboriginal heritage, to restrict or prohibit access or activities in relation to a site, object or remains (but not including private collections of objects). The approval of the Governor will be required for directions restricting or prohibiting access. Providing that the circumstances are not urgent, the Minister is required to give the owner or occupier of the land eight weeks notice of the proposed restrictions. Notice to the general public regarding the restrictions may be by notice published in the *Gazette*,

notice published in a newspaper, by the erection of signs, or by a combination of these.

In urgent situations inspectors may also similarly restrict access to or activities in or in relation to particular areas or objects. Unless the Minister remakes an inspector's directions they will lapse after 10 working days.

#### Care of Objects

Portable Aboriginal objects that have been removed from their original resting place are also protected under the Bill. People in possession of such an object as part of a public or private collection must take care of that object. Furthermore, provision is made for the Minister to have control over the disposal of Aboriginal objects where such disposal may be contrary to Aboriginal traditional interests (for example, the sale of tjuringas) or result in the removal interstate of objects of significance to South Australia.

#### Acquisition and Custody

The Bill enables the Minister to compulsorily acquire land, an Aboriginal object or an Aboriginal record where appropriate for the protection or preservation of Aboriginal heritage. It also enables the Minister (after consultation) to place land or an Aboriginal object or record that is in the Minister's possession in the custody of an Aboriginal person or organisation or to deal with the land, object or record in any other manner.

#### Access by Aboriginal People to Private Land

Nothing in the Bill prevents Aboriginal people from doing anything in relation to sites, objects or remains in accordance with Aboriginal tradition. The Bill also provides for access by Aboriginal people, subject to ministerial approval and consultation with owner and occupier, to sites of significance located on private land. Aboriginal people wish to have access to particular sites to carry out traditional activities, to revisit former camping and burial areas, and to educate their children. Such rights are already provided in the north of the State through relevant provisions in the Pastoral Act.

#### Fund

An Aboriginal Heritage Fund will be established to facilitate the protection and preservation of Aboriginal heritage. It may be used, among other things, to acquire land where protective measures are inadequate or inappropriate, to fund research, or to make payments to a landholder subject to a Heritage Agreement regarding the ongoing management of a site.

The Bill is the outcome of much detailed discussion and consultation with Aboriginal people and other interests particularly related to mining or pastoral interests. While full consensus has not been achieved, the Bill represents a balanced and workable piece of legislation that will provide more effective protection for Aboriginal heritage in South Australia. At the same time, the Bill ensures that there will be minimum disruption to land users, particularly in the north of the State, by assisting with the identification of sites and objects that require certain action subject to the Act.

Clauses 1 and 2 are formal.

Clause 3 is an interpretation provision. To be within the scope of the measure an 'Aboriginal object' or 'Aboriginal site' must be of significance according to Aboriginal tradition or of significance to Aboriginal archaeology, anthropology or history. Regulations can declare objects or sites or objects or sites of a class to be included or excluded from the definition.

'Aboriginal tradition' is defined as traditions, observances, customs or beliefs of the people who inhabited Australia before European colonisation and includes traditions,



observances, customs and beliefs that have evolved or developed from that tradition since European colonisation.

Land subject to a mining tenement is brought within the meaning of 'private land' and 'owner' of private land is defined to include the holder of the mining tenement. The measure provides that in certain circumstances such persons must be consulted.

A 'traditional owner' of an Aboriginal site or object is defined as an Aboriginal person who has, in accordance with Aboriginal tradition, social, economic or spiritual affiliations with, and responsibilities for, the site or object.

Clause 4 provides that the Crown is bound by the measure.

Part II of the measure deals with the administration of the Act. It provides for the functions of the Minister; the establishment of an Aboriginal Heritage Committee; the keeping of Aboriginal heritage archives; the manner in which the Minister is to make determinations and give authorisations under the measure; the appointment of inspectors and their powers; and the administration of a South Australian Aboriginal heritage fund.

Clause 5 lists the functions of the Minister under the measure. These include: to take measures for the protection and preservation of Aboriginal sites, objects and remains; to conduct, direct or assist searches for Aboriginal sites or objects; and to conduct, direct or assist research into the Aboriginal heritage. The Minister is required to consider any relevant recommendations of the Aboriginal Heritage Committee (established under clause 7).

Clause 6 enables the Minister to delegate powers under the measure, other than the power to authorise the commencement of proceedings for an offence.

Clause 7 provides for the establishment of the Aboriginal Heritage Committee. The Minister is to appoint Aboriginal persons to the committee to represent the interests of Aboriginal people in the protection and preservation of the Aboriginal heritage. The number of persons appointed to the committee is at the discretion of the Minister. The Minister must, as far as is possible, appoint equal members of men and women to the committee.

Clause 8 lists the functions of the Aboriginal Heritage Committee. The committee is an advisory committee to the Minister. It can advise on its own initiative or at the request of the Minister with respect to entries in the central archives on the Aboriginal heritage (set up under clause 9); measures that should be taken to protect and preserve Aboriginal sites, objects or remains; the appointment of inspectors; and any other matter related to the administration or operation of this Act or to the protection and preservation of the Aboriginal heritage.

Clause 9 provides that the Minister must keep central archives of information relating to the Aboriginal heritage. Part of the central archives is to be known as the 'Register of Aboriginal Sites and Objects'. Entries in this part are limited to descriptions of sites and objects determined by the Minister to be Aboriginal sites or objects.

The clause also provides that the Minister may assist Aboriginal organisations to establish local archives of information relating to the Aboriginal heritage.

Clause 10 provides for the confidentiality of the central and local archives. The approval of traditional owners or, in certain circumstances, the Aboriginal Heritage Committee (in the case of the central archives) or the organisation keeping the archives (in the case of local archives) must be obtained before information relating to an Aboriginal site or object is made available from the archives. The traditional owners, the committee or the organisation keeping local archives may stipulate conditions on which the infor-

mation is to be made available. The clause makes it an offence to breach such conditions and the maximum penalty provided is a \$10 000 fine or imprisonment for six months.

Clause 11 is an evidentiary provision. It provides that in any legal proceedings the presence of an entry in the Register of Aboriginal Sites and Objects constitutes conclusive proof that the site or object to which the entry relates is an Aboriginal site or object.

In addition, a determination by the Minister that a site or object should not be entered in that Register constitutes conclusive proof that the site or object is not an Aboriginal site or object. This does not apply if the determination has been subsequently reversed.

Clause 12 provides a system for the Minister to make determinations of whether a site or object is an Aboriginal site or object.

A person who proposes to take action in relation to a particular object that may constitute an offence against the measure if it is an Aboriginal object may apply to the Minister under the clause. If the object is entered in the Register of Aboriginal Sites and Objects, the applicant will be so notified. If it is not entered in the Register, the Minister is required to determine whether it should be entered and must give the applicant written notice of the determination.

A person who proposes to take action in relation to a particular area that may constitute an offence against the measure if the area is, or is part of or includes, an Aboriginal site or if an Aboriginal object is located in the area, may also apply to the Minister under the clause. The Minister is required to determine whether any entries should be made in the Register in respect of the area and give the applicant written notice of the location of each Aboriginal site or object in the area that is entered in the Register or that the Minister determines should be so entered. The Minister is required not to disclose the exact location of a site or object if this would be likely to be detrimental to its protection or preservation or in contravention of Aboriginal tradition.

The Minister is empowered to require an applicant to provide information in connection with an application or to engage a suitable expert to do so. Such a requirement must be made within 20 working days of the Minister receiving the application. If the Minister does require information to be so provided, the Minister must determine the application within 30 working days of receiving that information.

The Minister may refuse to entertain an application if the area or object is insufficiently identified, the application is not genuine or the Minister does not have the resources to determine the application.

Clause 13 provides that before the Minister makes a determination under the measure, gives an authorisation under the measure or before a regulation relating to the definitions of Aboriginal sites or objects is made the Minister must take all reasonable steps to consult with the Aboriginal Heritage Committee, any Aboriginal organisation that, in the opinion of the Minister, has a particular interest in the matter, and any traditional owners or other Aboriginal persons who, in the opinion of the Minister, have a particular interest in the matter.

The clause does not apply to determinations under clause 24 (8) relating to whether remains are Aboriginal remains or to authorisations by the Minister of entry into a restricted area by officials or of entry to land by Aboriginal persons.

Clause 14 empowers the Minister to impose conditions on an authorisation.

Clause 15 provides for the appointment of inspectors by the Minister. It enables the Minister to limit the area in

which the inspector may act; restrict the powers of an inspector; or authorise an inspector to give directions for the protection and preservation of a particular Aboriginal site or object.

Clause 16 requires the Minister to provide a person appointed an inspector with a certificate of appointment. The certificate is to be produced at the request of a person in relation to whom the inspector has exercised or intends to exercise powers.

Clause 17 sets out the powers of inspectors. These include power to enter land to inspect an Aboriginal site or object or a site or object that the inspector has reason to believe is an Aboriginal site or object; and power to seize and retain an Aboriginal object where the inspector has reason to suspect that an offence has been or is about to be committed in relation to the object or anything that affords evidence of an offence against the measure.

The clause also provides that where an inspector is authorised to give directions in relation to a particular Aboriginal site or object, the inspector may give instructions aimed at averting harm to the site or object to any person visiting the site or in the immediate vicinity of the site or object.

Clause 18 provides for offences with respect to hindering or obstructing inspectors or failing to comply with a requirement or instruction given by inspectors. The maximum penalty provided is a \$2 000 fine or imprisonment for three months.

Clause 19 provides that the Minister must establish the South Australian Aboriginal Heritage Fund. The fund is to consist of money given for the purpose by the Commonwealth Government, money appropriated by Parliament, income from investment of the fund (at the Treasurer's discretion), and any other money received by the Minister for the purposes of the measure. The clause provides that the fund may be applied in acquiring land or Aboriginal objects or records; in grants or loans to persons undertaking research related to the Aboriginal heritage; in making payments under a heritage agreement entered into by the Minister under the South Australian Heritage Act 1978; in the administration of the measure; and for other purposes related to the protection and preservation of the Aboriginal heritage.

Part III of the measure contains specific provisions for the protection and preservation of the Aboriginal heritage. It deals with the discovery of and search for Aboriginal sites, objects or remains; the prevention of damage to Aboriginal sites, objects or remains; the control of the sale of, and other dealings with, Aboriginal objects; the acquisition and custody of Aboriginal sites, objects and records; and the protection of Aboriginal tradition.

Clause 20 requires an owner or occupier of private land, or an employee or agent of such an owner or occupier, who discovers any Aboriginal site, object or remains on that land to report the discovery to the Minister. The maximum penalty for failure to so report is, in the case of a body corporate, a fine of \$50 000 and, in any other case, a fine of \$10 000 or imprisonment for six months. The Minister may direct the person making a report to take immediate action for the protection or preservation of Aboriginal remains. The maximum penalty provided for failure to comply is a fine of \$2 000 or imprisonment for three months.

Clause 21 makes it an offence for a person to excavate land for the purpose of uncovering any Aboriginal site, object or remains without the authorisation of the Minister. The maximum penalty provided is, in the case of a body corporate, a fine of \$50 000, and, in any other case, a fine of \$10 000 or imprisonment for six months.

Clause 22 empowers the Minister to authorise a person to enter land, search for any Aboriginal site, object or remains and to excavate the land. If any objects or remains are found they may be taken into the Minister's possession for the purpose of protecting and preserving them. The authorised person must, before entering the land, give reasonable notice to the owner and occupier (if any) of the land. The Minister is required to make good any damage done to the land. An offence of hindering such an authorised person is provided with a maximum penalty of a fine of \$2 000 or imprisonment for three months.

Clause 23 makes it an offence to damage, disturb or interfere with any Aboriginal site, object or remains without the authorisation of the Minister. The maximum penalty provided is, in the case of a body corporate, a fine of \$50 000 and, in any other case, a fine of \$10 000 or imprisonment for six months.

Clause 24 empowers the Minister to give directions prohibiting or restricting access to or activities in or in relation to an area surrounding any Aboriginal site, object or remains. Directions that prohibit or restrict access can only be made with the approval of the Governor. The directions may be limited in their application to particular persons or they may be of general application. The Minister is required to take reasonable steps to give not less than eight weeks written notice of the proposed directions to the owner and any occupier of private land affected by the directions, the Aboriginal Heritage Committee, Aboriginal organisations with a particular interest in the matter and a representative of any traditional owners or other Aboriginal persons with a particular interest in the matter. If the Minister considers that urgent action is necessary, the Minister may give directions without such prior notice but, in that event, must take reasonable steps to give such notice as soon as reasonably practicable after the giving of the directions.

If directions are given in relation to a site or object not entered in the Register of Aboriginal Sites and Objects, the Minister must determine whether to make such an entry. If the Minister determines not to make an entry the directions must be revoked.

The Minister must give due consideration to representations made by any person with respect to the directions. Where land in relation to which directions apply is sold, the vendor must inform the Minister.

Clause 25 gives an inspector similar powers to give directions but only where the inspector is satisfied that urgent action is necessary. The inspector must forthwith report the giving of any directions to the Minister. The directions lapse after 10 working days or earlier if revoked by the Minister.

Clause 26 makes it an offence to contravene or refuse or fail to comply with the Minister's or an inspector's directions under clause 24 or 25 without reasonable excuse. The maximum penalty provided is, in the case of a body corporate, a fine of \$50 000 and, in any other case, a fine of \$10 000 or imprisonment for six months.

Clause 27 exempts certain persons acting in official capacities and persons acting in emergencies from compliance with directions under clause 24 or 25.

Clause 28 requires a person who owns or possesses an Aboriginal object as part of a public or private collection to take reasonable measures to protect it. Failure to do so is an offence for which the maximum penalty is, in the case of a body corporate, \$50 000 and, in any other case, \$10 000 or imprisonment for six months.

Clause 29 makes it an offence to sell or dispose of an Aboriginal object or to remove an Aboriginal object from the State without the authorisation of the Minister. The

Minister must observe the requirements of the regulations in determining whether to give such an authorisation.

The maximum penalty provided for the offence is, in the case of a body corporate, a fine of \$50 000 and, in any other case, a fine of \$10 000 or imprisonment for six months.

Clause 30 empowers the Minister to compulsorily acquire land for the purposes of protecting or preserving an Aboriginal site, object or remains.

Clause 31 empowers the Minister to purchase or to compulsorily acquire an Aboriginal object or record. An Aboriginal record is defined in the interpretation provision as a record of information that must, in accordance with Aboriginal tradition, be kept secret from a person or group of persons. A record is in turn widely defined. If a price cannot be agreed the Land and Valuation Court must value the object.

Clause 32 empowers the Minister to require a person who has the possession of an Aboriginal object or record or an object or record that the Minister has reason to believe may be an Aboriginal object or record to surrender the object or record for the purpose of determining whether it is an Aboriginal object or record, examination and entry in the central or local archives, consideration of acquisition of the object or record or research related to the object. The object or record may be kept for a maximum of three months.

Failure to comply with a requirement to surrender an object or record is an offence for which the maximum penalty is a fine of \$2 000 or imprisonment for three months.

Clause 33 provides that if an owner of an Aboriginal object is found guilty of an offence in relation to that object, the court may order that the object be forfeited to the Crown.

Clause 34 enables the Minister to place land or an Aboriginal object or record that has been acquired or come into the possession of the Minister (other than by surrender of the object or record under clause 32) in the custody of an Aboriginal person or organisation, or to otherwise deal with the land, object or record, subject to such conditions as the Minister determines.

Clause 35 makes it an offence to divulge, contrary to Aboriginal tradition, information about any Aboriginal site, object or remains or about Aboriginal tradition, without the authorisation of the Minister. The maximum penalty provided is a fine of \$10 000 or imprisonment for six months.

Clause 36 empowers the Minister to authorise an Aboriginal person or group of Aboriginal persons to enter any land (including private land) for the purpose of gaining access to any Aboriginal site, object or remains. The owner and occupier (if any) of the land must be given a reasonable opportunity to make representations on whether and on what conditions the authorisation should be given. An offence of hindering or obstructing a person acting pursuant to such an authorisation is provided, with a maximum penalty of a fine of \$2 000 or imprisonment for three months.

Clause 37 states that nothing in the measure prevents Aboriginal people from doing anything in relation to any Aboriginal site, object or remains, in accordance with Aboriginal tradition.

Part V of the measure contains miscellaneous provisions.

Clause 38 makes it an offence to damage or interfere with a sign erected pursuant to the measure. The maximum penalty provided is a fine of \$1 000.

Clause 39 provides for service of notice or documents required or authorised to be given under the measure to be personal or by post.

Clause 40 provides immunity from liability for persons engaged in the administration or enforcement of the meas-

ure. A liability that would lie against such a person lies instead against the Crown.

Clause 41 provides that where an employee or agent acting in the course of his or her employment or agency is guilty of an offence, the employer or principal is also guilty of an offence.

Clause 42 provides that where a body corporate is guilty of an offence, each member of the governing body is also guilty of an offence.

Clause 43 provides that only the traditional owners may question the validity of an act or determination of the Minister where the Minister has failed to consult or obtain the permission of those owners as required by the measure.

Clause 44 is an evidentiary provision.

Clause 45 provides that offences against the measure are summary offences.

Clause 46 provides that proceedings for an offence against the measure can only be commenced on the authorisation of the Minister. If the Minister so authorises, a prosecution may be commenced at a time later than six months after the date on which the offence is alleged to have been committed.

Clause 48 gives the Governor general regulation-making power and enables regulations to prescribe penalties not exceeding \$2 000 for contravention of or non-compliance with a regulation.

Schedule 1 provides for the repeal of the Aboriginal and Historic Relics Preservation Act 1965 and the Aboriginal Heritage Act 1979.

Schedule 2 makes consequential amendments to the Mining Act 1971, the Planning Act 1982, and the South Australian Heritage Act 1978.

The amendments to the Mining Act 1971 require the Minister responsible for that Act to consider the effect on Aboriginal sites or objects before issuing a mining tenement.

The amendments to the Planning Act 1982 require applications for planning authorisations in respect of developments of a prescribed kind or in a prescribed area to be referred by the planning authority to the Minister responsible for the administration of this measure. The planning authorisation must not be granted until the planning authority has had regard to any representations of the Minister. If the planning authority is a council, the planning authorisation may only be granted with the concurrence of the Planning Commission. The commission is required, in turn, to have regard to any representations of the Minister.

The amendment to the South Australian Heritage Act 1978 enables the Minister responsible for the administration of this measure to enter into heritage agreements with owners of land on which an Aboriginal site or object or Aboriginal remains are situated.

Schedule 3 consists of a transitional provision. It provides that where an area was a prohibited area or historic reserve under the Aboriginal and Historic Relics Preservation Act 1965, immediately before the commencement of the measure, directions may be given under clause 24 in relation to that area without the need to comply with the consultation procedures set out in subclause (3) of that clause.

**The Hon. M.B. CAMERON** secured the adjournment of the debate.

#### ADJOURNMENT

At 9.30 p.m. the Council adjourned until Wednesday 4 November at 2.15 p.m.