HOUSE OF ASSEMBLY

Tuesday 29 March 1988

The SPEAKER (Hon. J.P. Trainer) took the Chair at 2 p.m. and read prayers.

LOCAL GOVERNMENT ACT AMENDMENT BILL (1988)

At 2.2 p.m. the following recommendations of the conference were reported to the House:

As to Amendments Nos. 1 and 2:

That the Legislative Council do not further insist on its disagreement thereto.

As to Amendments Nos. 3 and 4:

That the House of Assembly do not further insist on its amendments.

As to Amendment No. 5:

That the House of Assembly do not further insist on its amendment but make the following amendment in lieu thereof:

Clause 10, page 14, line 17—Leave out 'two' and insert 'three', and that the Legislative Council agree thereto.

As to Amendment No. 6:

That the House of Assembly do not further insist on its amendment but make the following amendments in lieu thereof:

Clause 10, page 17, after line 40—Insert new subsection as follows:

'(5a) The locality of land may only be used as a differentiating factor as follows:

(a) there may be differentiation according to the zone in which the land is situated;

(b) there may be differentiation according to whether the land is situated within or outside a township;

or

(c) where there are two or more townships in an area—there may be differentiation according to the township in which the land is situated'.

Page 18, after line 32—Insert new subsection as follows:

'(14) In this section—

"zone" means a zone established by regulation under the Building Act 1970, or defined as a zone, precinct or locality by or under the Planning Act 1982, or the City of Adelaide Development Control Act 1976'

and that the Legislative Council agree thereto.

As to Amendment No. 7:

That the House of Assembly do not further insist on its amendment but make the following amendment in lieu thereof:

Clause 10, page 22, lines 12 to 15—Leave out subparagraph (iii) and insert—

'(iii) the council cannot decide that rates of the same kind for a subsequent financial year will be payable in a lesser number of instalments unless:

—the council has obtained the Minister's approval; or

—rates of that kind for the previous three financial years have been payable in four instalments and the proposed change is that rates of that kind are to be payable in two instalments;'

and that the Legislative Council agree thereto.

As to Amendment No. 8:

That the Legislative Council do not further insist on its disagreement thereto.

As to Amendment No. 9:

That the House of Assembly do not further insist on its amendment but make the following amendment in lieu thereof:

Clause 10, page 22, after line 24—Insert new word and subparagraph as follows:

'and

(iii) the council cannot decide that rates of the same kind for a subsequent financial year will be payable in a single instalment unless:

—the council has obtained the Minister's approval; or

—rates of that kind for the previous three financial years have been payable in two instalments;'

and that the Legislative Council agree thereto.

As to Amendment No. 10:

That the House of Assembly do not further insist on its amendment but make the following amendment in lieu thereof:

Clause 10, page 28, after line 9—Insert new subsection as follows:

'(2a) After the financial year 1991-1992, the number of properties in an area subjected to an increase in the amount payable by way of rates because of the fixing of a minimum amount under this section may not exceed 35 per cent of the total number of properties in the area subject to the separate assessment of rates'

and that the Legislative Council agree thereto.

As to Amendment No. 11:

That the House of Assembly do not further insist on its amendment.

As to Amendments Nos. 12 to 17:

That the Legislative Council do not further insist on its disagreement thereto.

PETITIONS: SHOP TRADING HOURS

Petitions signed by 123 724 residents of South Australia praying that the House reject any proposal to extend retail trading hours were presented by Messrs S.J. Baker, Blevins, Klunder, Olsen, and Payne.

Petitions received.

PETITIONS: TOBACCO TAXES

Petitions signed by 1 102 residents of South Australia praying that the House urge the Government not to increase taxes on tobacco products in order to fund anti-smoking campaigns were presented by Ms Gayler and Mr Olsen.

Petitions received.

PETITION: MITCHAM MOTOR REGISTRATION DIVISION

A petition signed by 1 562 residents of South Australia praying that the House urge the Minister of Transport to reject any proposal to close the Motor Registration Division office at Mitcham was presented by Mr. S.J. Baker.

Petition received.

QUESTIONS

The SPEAKER: I direct that written answers to the following questions on the Notice Paper, as detailed in the schedule that I now table, be distributed and printed in *Hansard*: Nos. 295, 466, 546, 563, 565, 572, 610, 613 and 621, and I direct that the following answer to a question without notice be distributed and printed in *Hansard*.

COMPUTER GAMES

In reply to **Mr De LAINE** (3 March).

The Hon. G.J. CRAFTER: I have discussed the question relating to violent computer disc programs with the Attorney-General. He advises that he has received a number of complaints on the content of some computer games. The South Australian Classification of Publications Board does not have jurisdiction to deal with these games. However, section 33 of the Summary Offences Act deals with the publication of offensive or indecent material. The word 'material' is broadly defined to include written or printed materials, pictures, carvings, video tapes and films. It also includes 'any other material or object on which an image

or representation is recorded or from which an image or representation may be reproduced'. The Attorney-General advises that a person could commit an offence under section 33 of the Summary Offences Act, if that person produced or sold a computer program stored on a disc or tape, and that computer program resulted in the display of offensive material. Complaints of this nature should be referred to the Commissioner of Police for appropriate investigation. Notwithstanding the above, the Attorney-General advises that violence is a matter of considerable concern and is being addressed by State and Commonwealth Governments. In this respect, the Attorney has asked that whether a classification system should be introduced for computer games be placed on the agenda of the next meeting of Ministers responsible for censorship.

POLICE COMPLAINTS AUTHORITY'S REPORT

The SPEAKER laid on the table the report of the Police Complaints Authority for 1986-87.

MINISTERIAL STATEMENT: CORONER'S INQUIRY

The Hon. D.J. HOPGOOD (Deputy Premier): I seek leave to make a statement.

Leave granted.

The Hon. D.J. HOPGOOD: Members would be aware that the Coroner recently inquired into and reported on the death of Mark Andrew Langley, Alan Arthur Barnes, Peter Stogneff and Neil Frederick Muir. Although the Coroner did not formally inquire into the death of Richard Dallas Kelvin, the Coroner did have cause to consider and comment on the disappearance and death of Richard Kelvin. Evidence was tendered before the coroner to suggest that certain similarities exist between these disappearances and deaths. It is commonly known that the person or persons responsible for the deaths of Mark Langley, Alan Barnes, Peter Stogneff and Neil Muir have not been brought to justice. In relation to the death of Richard Kelvin a single person, Bevan Von Einem, has been convicted of the murder and is currently serving a sentence of life imprisonment for that crime. However, it is more than probable that others were involved in that terrible crime.

In his findings the Coroner drew attention to the persistent and dedicated work of police officers associated with investigation of the various crimes. However, despite these efforts no avenues of inquiry are left to pursue. This situation led to suggestions before the coronial inquiry that the existing reward of $100 000 in relation to several of the unsolved murders be substantially increased. The Coroner himself expressed the view:

> . . . a substantial increase by way of raising the existing reward for information may be warranted.

The Government has, as a matter of urgency, considered that suggestion and sought advice from the Commissioner of Police. Following consultation with senior officers involved in the investigations the commissioner has recommended a substantial increase in the reward. Accordingly, the Government has decided that the reward be increased to $250 000.

In addition, the Government has decided that the reward continue to be available in relation to information leading to the arrest and conviction of any other persons jointly responsible with Bevan Von Einem for the murder of Richard Kelvin. Furthermore, the reward offer will be varied to include information leading to the arrest and conviction of the person or persons responsible for the death of Neil Muir. The specific terms of the offer of reward are that:

> A reward of up to two hundred and fifty thousand dollars ($250 000) will be paid by the Government of South Australia to the person who first gives information leading to the apprehension and conviction of the person or persons responsible for this crime. The allocation of the reward will be at the discretion of the Commissioner of Police.

I do not think it would be possible to overstate the concern, and indeed the horror, that these crimes evoke within our community. Nor would it be possible, I think, to fully appreciate the tragic loss felt by the families and relatives of the unfortunate victims. One is always concerned that the repeated public exposure of these crimes causes unnecessary distress to the families. This is certainly not my intention. Only with the publicity which surrounds the announcement of this record high reward can we hope to reach those who may have some information which may bring the offenders to justice.

In conclusion, I urge any person who has information to contact their nearest police station or Police Headquarters or, alternatively, the Major Crime Squad. All information will be treated in the strictest confidence.

PAPERS TABLED

The following papers were laid on the table:

By the Minister for Environment and Planning (Hon. D.J. Hopgood):

Planning Act 1982—
- Crown Development Report—275 kv Transmission Line Between Tungkillo and Cherry Gardens Substation.
- Regulations—
  - Application Fee.
  - Marineland Redevelopment Scheme.

By the Minister of Lands (Hon. R.K. Abbott):

Surveyors Act 1975—Regulations—
- Advertising and Conduct.
- Prescribed Cadastral Survey.

By the Minister of Education (Hon. G.J. Crafter):

Schedules of Alterations made by Commissioner of Statute Revision—
- Land Agents, Brokers and Valuers Act 1973.
- City of Adelaide Development Control Act 1976.

Liquor Licensing Act 1985—Regulations—Liquor Consumption at Ceduna and Thevenard (Amendment).

By the Minister of Labour (Hon. Frank Blevins):

Long Service Leave (Building Industry) Act 1987—Regulations—Registration, Returns and Appeals.

By the Minister of Fisheries (Hon. M.K. Mayes):

Fisheries Act 1982—Regulations—Central and Southern Zone Abalone Fisheries—Unshucked Meat.

STANDING ORDERS COMMITTEE REPORT

The SPEAKER brought up the Standing Orders Committee Report 1987-88 together with minutes of proceedings.

Ordered that report be printed.

STANDING ORDERS SUSPENSION

The Hon. D.J. HOPGOOD (Deputy Premier): I move:

That Standing Orders be so far suspended as to enable the Leader of the Opposition to move a motion without notice relating to allegations of contempt of Parliament; and that such suspension remain in force no later than 3.15 p.m.

In support of the motion, let me just say that the Government first became aware of the Opposition's intention to raise an allegation of contempt in the Parliament through the press. We have since become aware of a letter that the Opposition sent to the Speaker.

Sir, you and members would know that there can be no more grave allegations against a member, and particularly against a Premier. It is therefore imperative that the matter be considered by the House at the earliest opportunity. That opportunity is now. I think it is intolerable that any other business be transacted until such time as this matter is resolved.

In facilitating the consideration of whatever the Leader of the Opposition or his colleagues may want to place before the House, I make it absolutely clear that the Government does not in any way accept that there is a case to answer. However, it is important in the conventions of Parliament that we should facilitate the consideration of whatever material the honourable member has before him. Therefore, I would commend this motion to the House.

The Hon. E.R. GOLDSWORTHY (Deputy Leader of the Opposition): I indicate to the House that the Opposition wished this motion to be moved but I indicated also to the Deputy Premier that we had some very pertinent questions that we wished to ask before this motion was brought on. However, the Government was not prepared to use Government time in which to debate this motion. I then put to the Deputy Premier that we would ask two or three questions which were pertinent and proceed to the motion. However, the Government has not acceded to that request. Under these circumstances, it is a bit hard to understand its thinking but, nonetheless, we wish to proceed with the motion.

Motion carried.

PREMIER'S REMARKS

Mr OLSEN (Leader of the Opposition): I move:

That the comment made by the honourable Premier in the House of Assembly on 24 March 1988 that the member for Coles had refused to comply with the Members of Parliament (Register of Interests) Act 1983 contravened section 6 (1) (B) of that Act because it was false, malicious, unfair and not made in the public interest; that the honourable Premier is accordingly guilty of contempt of the Parliament; and that therefore the House should determine an appropriate penalty for this contempt.

The Hon. B.C. EASTICK: I rise on a point of order, Sir. On an earlier occasion, the practice of this House has been to ask the person charged with contempt to leave the precincts. I draw attention to *Hansard* of 23 July 1968, when the then Speaker indicated, in asking the Premier to withdraw from the Chamber (it was a motion of contempt against the Premier of the day):

I wish to make it clear that it is the usual practice that when a motion concerning breach of privilege and involving reflection on a member comes before the House, the member against whom the allegation has been made shall leave the Chamber so that the House may debate the question in his absence.

The SPEAKER: Order! There is no charge against any member. There is a substantive motion before the Chair that a charge be considered against a member. As such, Standing Order 175 does not come into play on this occasion. The honourable Leader.

Mr OLSEN: This motion, which refers to a specific comment by the Premier, was made last Thursday, in this House, against the member for Coles. It is recorded in *Hansard* as follows:

She, who refused in fact to comply in relation to statements of . . .

Hansard then records members' interjections, but all honourable members who were in the House at the time know that the Premier uttered further words which *Hansard* has been unable to report because of the interjections but which linked this comment directly to the member's obligations under the Act.

All members who were in the House at the time know that the Premier meant one thing and one thing only in making this assertion—and there have been some reports publicly in regard to that. It was the specific assertion that the member for Coles had refused to comply with the Members of Parliament (Register of Interests) Act 1983. That was the assertion which was made—and no other. Why did the Premier make such an untrue assertion?

Quite clearly, he was annoyed, irritated, and frustrated by the questions asked of him last Wednesday and Thursday about the conduct of the Minister of Agriculture. He did not like trying to defend the indefensible; he did not like being held up to public ridicule. His instinct told him that the Minister was guilty, but he could not admit this two days before the Port Adelaide by-election.

So finally, under pressure, the Premier himself committed the indefensible. He asserted, without any shred of evidence, that the member for Coles had breached an Act of this Parliament, a breach which could see a member fined $5 000 and have his or her Parliamentary career ruined by expulsion from the House.

In making that assertion, the Premier was charging that the member for Coles, in pursuing the Minister of Agriculture on the question of declaring an interest to Cabinet, was guilty of hypocrisy and double standards. He asserted that the member for Coles had no business herself pursuing this issue, because she had refused to comply with the Act which requires all members of Parliament to declare their interests.

A reading of *Hansard* reveals that the Premier quite quickly realised his grave error, for when the member for Coles, quite justifiably, interjected to highlight the outrageous and patent untruth, the Premier tried to retreat. He said:

I will not proceed with that particular issue . . . I do not wish to pursue that any more.

After the member for Light had raised with the Speaker the question of the Premier's transgression under the Act, the Premier said his claim was 'nothing to do with what is contained in her statement but is to do with what she said about the information she would supply'.

Every member who was in the House at the time knows that this excuse is just as untrue as the Premier's original comment. The Premier intended to smear and malign the member for Coles. He meant to discredit her publicly and to damage her reputation. He was working on the principle that if you throw mud, some will stick. He got into the gutter with the Minister of Agriculture. Even if, for one second, the Premier's pathetic excuse is accepted, what are the facts?

Honourable members would recall that when this legislation was before the House in 1983, the question of the disclosure of the interests of members' families was debated at some length. It had also been cavassed extensively when similar legislation was before the House in 1978. On each occasion, the member for Coles had been clear and consistent in her attitude. It was not an attitude of defiance—of an unwillingness to comply with legislation passed by the Parliament—rather, it was an attitude which raised serious and legitimate questions about the practicality and fairness of the legislation. On 15 March 1978, the member for Coles said this on the third reading of the disclosure of interests legislation:

I must say that I am blessed if I know how I could force my husband to comply with its requirements.

She also said:

I repeat that Opposition members are not opposed to the motion of disclosure of members' interests, but we believe that such disclosure should be restricted to members.

When the Bill now in force was debated in 1983, the member for Coles again highlighted the difficulty of ensuring compliance with the Act through the disclosure of the interests of family members. On 2 June 1983 she said:

There is no way in which a member could compel his or her spouse or member of the family to disclose a financial interest.

Her first return under the Act revealed and recorded this point, as it stated:

My spouse declines to disclose to me details of his interests under the Act.

What did the Government do about this? Did it send in the police to search the family home, as the Attorney-General once threatened to do? Did it prosecute her or her former spouse for non-compliance with the Act? Did it take either of them into a court of law and have them grilled about the matter? The Government did none of these things, because it knew then that right was on the side of the member.

Never at any stage did the member for Coles say that she would defy the Act. The simple but fundamental point she was making—a point as valid now as it was then—is that she could not declare those interests of her former husband because she did not know about them.

In October 1983 the member for Coles received from the Attorney-General a letter which vindicated her position—which proved conclusively that she had been involved in no breach of the Act—which condemns the Premier now. The letter refers to advice the Attorney-General had received on the matter from the Solicitor-General, and makes it perfectly clear that, according to the Solicitor-General, members cannot be forced to reveal information which is not known to them.

The Attorney-General confirmed this point in a ministerial statement on 18 October 1983. In that statement, he referred to the possibility that the Government would consider amending the legislation to clarify obligations of members' spouses. The Attorney went on to say:

Clearly, this will not be necessary if all members comply by disclosing the interests of their family which are known to them.

This, I repeat, is what the member for Coles had maintained all along. The Attorney also said:

Obviously, it is only those interests which are known to them which could influence their decision-making.

The Hon. B.C. Eastick: Which Attorney is this?

Mr OLSEN: The current Attorney, the Hon. Chris Sumner.

The Hon. Jennifer Cashmore: The one who blew the whistle on the Minister of Agriculture.

Mr OLSEN: The one who ensured that his integrity was not compromised by the Minister of Agriculture. That the member for Coles and her family at the time behaved completely correctly and legally in this matter was confirmed in discussions her former husband had with the Registrar of Interests and the Attorney-General. He was told that his attitude did not involve any non-compliance with the Act.

I therefore come back to the Premier's comment—an assertion of a quite specific action by the member for Coles. The Premier did not say that the member had made statements threatening not to comply. Rather, it was a direct and unambiguous assertion that she had refused to comply—an assertion not of a threatened action but of a completed action, an illegal action under the Act in that the facts disclosed on the member's statement of interests were incomplete. The Premier cannot get around that. He cannot claim that he was simply referring to public statements the member made at the time about loopholes in this legislation, for even in those statements, compliance by the member was not the issue.

As I have shown, the honourable member simply and justifiably highlighted difficulties with this Act which the Government was forced to concede. So, while the honourable member, according to the advice of the Government's own legal advisers, has complied in all respects with the Act, the question to resolve now is the Premier's own non-compliance with that Act. Section 6 of the Act was included to protect the member from unfair and malicious use being made of the Act contrary to the public interest. There was certainly a malicious tone in the Premier's voice when speaking in the debate last Thursday. On each of the criteria, the Premier has offended. His statement was unfair in that it was untrue. His statement was malicious in that it was a deliberate and calculated attempt to smear the honourable member with the assertion of acting with hypocritical double standards.

The Hon. R.G. PAYNE: On a point of order, Mr Speaker, in view of the seriousness of the matter I had refrained from interrupting the Leader before. Any member of this House knows full well that no member is entitled to impute improper motives to any other member. Clearly, the statements just made were in that category.

Members interjecting:

The SPEAKER: Order! I uphold the point of order, with the proviso that it is difficult in a particular instance, where the whole subject of a substantive motion is centred around imputations around another member. However, in the course of their contribution to the debate on that substantive motion, members should try to stick as closely to the norms of the House as possible. The honourable Leader.

Mr OLSEN: It was said selfishly to protect the Premier from the consequences of his own actions, to deflect attention from the fact that he had descended into the gutter with the Minister of Agriculture over his actions of recent weeks. By no stretch of the imagination could his statement be held to have been in the public interest, because it casts an unwarranted, unnecessary as well as untrue reflection on a member of Parliament.

It amounts to a clear contempt of Parliament in that it seriously and prejudicially reflects on the character and conduct of the member for Coles in her capacity as a member. The case against the Premier is therefore cut and dried. If anyone has acted with hypocrisy, with double standards, and with contempt in this matter, it has been the Premier. He leads a Government which once said it would force public servants and political journalists to declare their interests. This is the same Government which cannot even apply to itself conflict of interest guidelines in the conduct of Cabinet meetings.

This whole affair began because of the shameful abuse of power by this Government in applying the Planning Act in a bid to deny a small church group its legal rights. If members opposite refuse to vote for my motion, they will be condoning another abuse of power by this Government. I have no doubt that the Whip has been out on their side to indicate what they shall do later today. They will be condoning the right of the Premier to disregard an Act of Parliament for selfish and malicious Party political interest. If they vote against my motion, they will be confirming what is becoming all too readily apparent with the Labor Party across our nation: that it is only interested in looking after its mates, and that no law can protect an individual

against a crooked, corrupt, or contemptuous Government. In all the circumstances I have referred to, the Premier is guilty of a contempt of Parliament. The Opposition believes that an appropriate penalty would be his suspension from the House for the remainder of this session.

The Hon. J.C. BANNON (Premier and Treasurer): I will first deal with the question of this motion and the matter which we are dealing with today, and which in fact was trumped up at the end of last week in order to provide some sort of final flurry as the Port Adelaide by-election approached. Its having been forced to come into this House, I am very happy to deal with it. Secondly, I will make quite clear that such comment I made (and there was very little comment, indeed) was based on publicly declared positions on the public record, and was not related in any way to specific or particular information I gleaned from a pecuniary interests register. That was quite apparent to all members. I remind members, if they have forgotten, just how publicly those positions were declared, just how much publicity there was, and how much appeared on the record.

Thirdly, I will put those remarks in the context of the debate in which it took place; namely, a question and answer coming as a culmination of a long series of innuendo and allegations of the lowest and basest of motives—effectively, of corruption on the part of a particular member of Government, of incompetence, and of failure to observe standards. The real issue was a failure to observe standards.

In that context, I think it is quite legitimate to refer (as I will in a minute in a number of other areas) to certain people's attitudes to legislation which require those standards as well. I make the preliminary point that this Government introduced pecuniary interest legislation. It was tried by a previous Labor Government and rejected, but this Government again introduced this measure and successfully steered it through with, I might say, support from some, although not all, members of the Opposition. We were the Government that, if you like, set into statute those standards.

I can assure the House that, as a Government, we do not intend to depart from that high standard that we have set ourselves. That is at the essence of the matter, and that was the basis of the remarks I made. We are told that this is a matter of the gravest concern and urgency—and indeed it is. I do not think that there is anything more grave than to accuse the Leader of the Government, the Premier, of committing some sort of contempt or abuse of an Act of Parliament or the Standing Orders and, if it is made an issue and if it is the view of any member, or the Opposition, then it should be raised as a matter of urgency and dealt with and disposed of as a matter of urgency. What do we have in this exercise? The incident that we are talking about occurred at the end of Question Time on Thursday during the last question of the day.

There was no notice of anything. The member for Coles certainly defended herself on that occasion and made a personal explanation, as she had every right to do. However, there was no motion or move, and no notice was given concerning this grave travesty, this breach, which had allegedly been perpetrated by me.

Did the Leader of the Opposition get up and move dissent from the Speaker's ruling which said that there was no point to answer? Did he immediately act to ensure that something was brought on? No, he waited until the next day. Interestingly enough, it was Friday afternoon on the eve of the Port Adelaide by-election when he wrote to you, Mr Speaker, one would have thought perhaps a legitimate letter, a confidential communication to the Speaker concerning the matter that he intended to raise in the House. Indeed, it was so confidential that simultaneously copies were released to the press so that it could be fulsomely quoted anywhere and at any opportunity, indeed as was the intention.

So, on that Friday afternoon this letter, giving notice that certain action would be taken when Parliament resumed today, was sent. I guess that it was hoped that there would be a front page headline in the morning press as people went to the polls, that headline stating that the Premier would be guilty of contempt and possibly facing gaol and a fine. After all, it had been done once before by those in the Liberal Party.

When the Adelaide by-election was on, they were happy to concoct a story that had a headline suggesting that I would be gaoled with breaches of the Federal Electoral Act. That was a trumped up and concocted charge the same as this one. The timing was almost identical and the purpose similar. I thought it was made clear as to how urgent it was when the Deputy Leader of the Opposition got up and said, 'Look. While this matter is extremely urgent, we would still like to ask a few questions beforehand.'

Opposition members expected me to sit here answering questions with an allegation hanging over my head that I had committed some grave contempt of Parliament. Well, that is not on. The matter needs to be disposed of and, if it is as grave, urgent, and serious as Opposition members say, it needs to be disposed of immediately, and that is what we are doing.

The question is, 'What was said in fact?' Essentially, as the Leader of the Opposition has conceded, very little indeed was said. It was a passing remark, a simple and obviously telling reference to the fact that, when one talks about the highest standards of declaration and conflict of interest, those standards that should be applied by Ministers and the Government, perhaps one should also look at the way in which they are applied to oneself and the attitudes taken to the legislation that lays down these requirements. It was a perfectly legitimate reference and a passing comment, seized on with the greatest indignation and horror by members Opposite.

Essentially, I was trying to make two simple points. The first related to the general question of disclosure which perhaps should be dealt with as a preliminary point, that it must work properly and that the rules must be clearly laid down and that if, in this instance, as mentioned by the Leader of the Opposition, spouses are not included and there is some incompleteness in the information for whatever reason, one is effectively, if one does not pursue that and try to make it work and make it practicable, saying, 'I support the principle, but not the legislation that will make it workable.'

Secondly, a certain hypocrisy is evident. Members opposite asked the Minister of Agriculture questions loaded with innuendo about his so-called conflict of interest when they themselves had actively and publicly campaigned against that existing legislation and made statements that indeed brought them into some form of contempt. In that context I was particularly referring to the behaviour of the member for Coles who, over a number of days, raised matters by way of question and interjection. Let me give just three examples of the way in which she treated this issue in respect of which she has demanded the highest standards of the Minister of Agriculture.

On Tuesday 22 March, she asked the Minister whether he was an unsuccessful bidder at auction for the property in question and added, quite gratuitously, 'the Minister having strenuously opposed that organisation's application for planning'. There is a clear innuendo and an attempt to

link a private action taken in a particular context with a Minister's response as a local member. I might add that the member for Coles would not have dreamed of making even that gratuitous side remark if the Minister's wife, and not the Minister himself, had bid at auction, because apparently that would have cordoned off any kind of responsibility on his part.

Be that as it may, on Wednesday 23 March we move from innuendo to gratuitous insult, when I was asked a question by the honourable member which referred to a lapse of memory on my part. Clearly, that was aimed at putting a pejorative emphasis on something where I had clearly said there was no lapse of memory. In fact, I had not heard a particular statement. That was laid out honestly and completely. I did not say that there was some kind of remembrance of the particular incident on a later occasion. But no, the innuendo was there; the gratuitous insult was there.

Finally, on the day in question, 24 March, the member for Coles used a blatant misrepresentation, I would suggest. In answering a question from the Deputy Leader, the Minister of Agriculture, referring to certain material that had been distributed, said that he had not authorised such action. Two questions later the member for Coles prefaced a question to the Minister by saying:

> Notwithstanding the claims by the Minister of Agriculture a few moments ago that he knew nothing about certain material—

and on she went. Well, that is a minor matter, no doubt, but it is part of a pattern that had been developed which I think shows the member for Coles in a pretty sorry light indeed. It was this approach, and in response to this sort of attitude to a matter of public importance, that led me to simply make the remark I made—a passing remark—which is now the subject of this motion. Was anything said or referred to which was not publicly known—because that is the essence of this? If indeed I had been referring to certain confidential information or information published in a register covered by the Act of Parliament, that is one thing; but, in fact, I was not—I was referring to specific, clear and well publicised attitudes. The attitude of the member for Coles concerning disclosure of interest is well known—she ensured that it was the subject of considerable and vigorous public debate when the legislation was before the House and she actively participated in that in all ways possible.

Clearly, it can be no breach of the Act to publicly comment on matters that are public knowledge, even if that information is also contained in the register. To have it otherwise would create an absurd situation which would limit freedom of speech. If you do not want particular matters to be raised you make sure they are in the register because even if they are known publicly or in other ways you would somehow be precluded from making any reference whatsoever! That is patently absurd.

The member for Coles' views, as I have already said, are very public and very well known. In 1978, when she opposed a similar piece of legislation put forward by the former Labor Government, she spoke against it and voted against it at the third reading. She did so largely because of her disagreement with that provision about the disclosure by members of parliamentarian's families. She also opposed the present legislation when it was before the House in June 1983, again objecting to that particular provision in the Bill. Ironically, incidentally, she drew special attention to clause 6—this is the clause that the Leader of the Opposition chooses to use to try to somehow indict me—saying it was nonsense, that it was not possible to make judgments of what was and what was not malice.

I notice that the Leader of the Opposition has no problem. He says that the tone of my voice indicates that it was malice. Perhaps he ought to do a voice tone check with the member for Coles and make quite sure. Anyway, the member for Coles says that there is no way you can judge that.

Members interjecting:

The SPEAKER: Order! Will the Premier resume his seat. The Leader of the Opposition made his contribution to the debate in silence—he was heard with reasonable courtesy. I would expect, and I think most members would expect, that the Premier would be entitled to the same courtesy and not be subjected to a barrage of interjections.

The Hon. E.R. Goldsworthy: He shouldn't even be in the place.

The SPEAKER: Order! I warn the honourable Deputy Leader for interjecting in that fashion immediately after members of the House have been reprimanded by the Chair. The honourable Premier.

The Hon. J.C. BANNON: I notice also in that debate that the member for Coles made what might be called a prophetic comment in the light of the way in which she has pursued this issue and the Minister of Agriculture. She said:

> We all know the political reality of this is very limiting indeed. When the mud is being thrown, some sticks. All the legal and parliamentary redress and the retraction in the newspapers do not undo the damage done in the first place.

Perhaps she should think about those words before she and her colleagues assay into some of the quite irresponsible allegations they have made against members on this side in the past. To make it quite clear that these are publicly expressed attitudes and nothing to do with what is contained in the register as a source of information, I was asked a specific question by the member for Coles on 15 September 1983 as to whether it was the intention of the Government to take action against a member who fails to comply with the requirements of the Members of Parliament (Register of Interests) Act. I replied, perhaps somewhat naively in retrospect, given the attitude of a number of members opposite:

> I am sure nobody in this place would contemplate breach of such requirements which are embodied in the law.

The question was, of course, the prelude to a vociferous campaign in the media by the member for Coles against the provisions of the Act to which she objected. She wrote to the Clerk of the House, and press clippings from 3 October 1983 until 26 October of that year reveal there were 11 stories containing seven photographs of the member for Coles, all in relation to this matter.

So, her attitudes were quite clearly there on the public record, spelled out completely. Referring to her spouse's attitude to disclosure, she said, 'I sympathise with his view; it is an unwarranted breach of privacy to publish the details of the sources of income and liabilities of a private person', and so on. Indeed, she went even further and talked about the ALP sending its bloodhounds into the bedrooms, private affairs and bank accounts of MPs. Does that indicate someone who really believes that this is something that ought to be on the public record? On the contrary, it is suggesting considerable concern about it. I point out, incidentally, that the final Bill was supported by a number of those members opposite who presumably did not believe that it was bloodhounds sniffing into the bedrooms, private affairs and bank accounts of MPs.

So, what is the conclusion of all this? The member for Coles certainly made her attitudes well known. Section 6 of the Act cannot be read as imposing fetters on the use of information not derived from the register simply because the same information happens to be in the register. Nor can it be read as imposing fetters on the making of comment

on matters not ascertained from the register simply because the same comment could have been made after examining that register. Because those views were known—because they were on the record—it was quite reasonable for me to have made the passing remark which I made.

When we talk about contempt under this provision, it is very interesting that the Leader of the Opposition has jumped up on this occasion to write to you, Mr Speaker, and bring this motion before the House. Where was he when, for instance, another member on his side blithely announced that he would ignore that register and would be happy to pay a fine (and later he is publicly reported as saying he had rearranged his affairs to ensure the information was not available)? I did not hear anything about contempt on that occasion. What about when the Leader of the Opposition, the Deputy Leader, the member for Mitcham or the member for Heysen all went through what I would best describe as a trawling expedition in the register to concoct some questions which were clearly loaded with innuendo and, in some cases, outright accusation? Let me cite some examples. On 19 October 1983, the member for Henley Beach asked a legitimate question about artificial sweeteners. The Deputy Leader suddenly stands in his place and announces that, because he has looked at his pecuniary interest statement, the honourable member has shares in CSR and is some way precluded from asking that question. Nobody raised the issue as to whether that was a wrongful use of the pecuniary interest register at that time. On that same day the Leader asked a question concerning a return lodged by the Minister of Housing in relation to his home. He asked the question, Mr Speaker; he put it on the public record in that comment.

On 12 August 1986 the member for Heysen, who no doubt recalled the listing of the Colac Hotel as being one of the interests in an official capacity—not as Minister, but in another official capacity—of the Minister of Marine, asked whether he had decided to try out the sale of vacant land next to the hotel as a matter of conflict. The next day the member for Mitcham joined the attack on that very point. I notice that all of them were careful to avoid the facts that the Minister had resigned his position in relation to the hotel, that proper procedures were followed and that the land was sold for an above valuation price. However, that was the big cause of the day, and that was pursued until it became the dead end that obviously it was. On 3 December 1986, again the member for Mitcham, in an extraordinary question to the Minister of Labour, implied that because the Minister bought a Housing Trust home in Whyalla 10 years ago he had somehow acted improperly and had not declared interest. And what about the remark generally on the bloodhounds?

To conclude, my comments last Thursday were brief. I did not intend to say much more or to raise it to a higher point, but simply to sound a warning to the Opposition that it was in many respects being hypocritical and inconsistent in its approach to the particular issue that it was pursuing and that the member for Coles had no great credibility when it comes to accusations about disclosure. Attempts to avoid the legislation, circumvent its provisions and go trawling after members' interests, as has been done—and there are examples of that—are actions that have been taken and could have been questioned. So, members are now becoming holier than thou accusers on this issue and my remark was simply aimed at making that point.

If in fact I have caused the member for Coles any personal distress or embarrassment by referring to a situation that no longer exists, that was certainly not my intention. I think that the member for Coles knows me well enough to know that that is so. I was referring to a publicly stated action and attitude on a public matter, and I was referring to it legitimately and not in any way in breach of a particular provision. I think that the reaction of the member for Coles was definitely an over-reaction, a complete over-reaction, and it has led or enticed the Leader of the Opposition into this extraordinary procedure today. If I could borrow a line from Shakespeare's *Hamlet* act II, scene 2, 'The lady doth protest too much.'

Members interjecting:

The SPEAKER: Order! The honourable member for Coles.

The Hon. JENNIFER CASHMORE (Coles): It is clear that the Premier has spent the weekend doing his homework, not only his Shakespearean homework, in an attempt to find a quotation that can justify his impossible position. He has pored through *Hansard*, the newspapers and correspondence, and his feeble attempts to justify his position have demonstrated that that poring through the records has been in vain. He has found nothing whatsoever that could justify his breaching of the Act in accordance with the words of this resolution, which are as follows:

> The Premier in this House of Assembly on 24 March stated that the member for Coles had refused to comply with the Members of Parliament (Register of Interests) Act 1983, contravened section 6 (1) *(b)* of that Act because it was false, malicious, unfair and not made in the public interest.

The Premier avoided all of those things; he slid out from under the issue that his statement was false. His statement in the Assembly was this:

> The member for Coles, whom I find an extraordinary person to raise this question of conflict of interest and declaration of interest when I recall that it was she who refused in fact to comply in relation to statements of . . .

That was a false assertion. The Premier has said nothing in his reply that in any way refutes the truth of the fact that that was a false assertion. Indeed, if it was not a false assertion why has the Premier's Government taken no action whatsoever against me—ever—and why has the Parliament taken no action whatsoever against me—ever? It is for the simple reason that in no way at all have I ever breached the Members of Parliament (Register of Interests) Act.

The Premier's very feeble response, in which he attempted to defuse the matter by introducing a large amount of detail—and semantic detail at that—has not convinced anyone on this side of the House (or beyond, I believe) that he did not maliciously, falsely and unfairly—and certainly not in the public interest—accuse me in a most despicable and contemptible manner of breaching an Act of Parliament with which I have meticulously complied. I will read to the House the letter that I wrote to the Clerk of the House on 30 September 1983 in which I stated:

> Enclosed herewith is my return disclosing my interests in accordance with the provisions of the Members of Parliament (Register of Interests) Act. As you can see from the return, my financial and personal affairs are simple. Under the Act, my sole income is my parliamentary salary; my only political association is the Liberal Party of Australia; my only liability is my share of the mortgage on the family home.

That information has been placed on the register and at no stage has anyone suggested that I have breached the Act. In raising the matter as he did, the Premier quite clearly was motivated by malice. As the Premier has placed this issue in the context of its circumstances, I believe I am also entitled to place the issue in the context of its circumstances.

The circumstances are that the Premier, his Minister of Agriculture, his Minister of Planning and indeed his whole Cabinet (because they are all involved in this) had been under pressure for days and days about the Minister of Agriculture (who cannot even be bothered listening to this

debate at the moment, he is so engrossed in another conversation) and his exercise of a personal interest without declaring the matter to his Cabinet colleagues, and about his pressure on his colleague the Minister of Planning to subvert the Planning Act by invoking section 50 in an entirely inappropriate way.

It is suggested by the Premier that it was somehow inappropriate for us to question this. He actually raised the point that we were chivvying, that it was not nice and not a kind thing to do, or that it was somehow a little bit soiled to subject the Minister of Agriculture to valid parliamentary scrutiny in the performance of his ministerial duties: there is something a bit nasty about that which the Premier does not like. The fact that it is done in the House in clear view of the public is irrelevant. I mean, the public does not have the right to know! We all know how the ALP feels about the public having the right to know: as long as it happens after an election it is okay, but if it is before an election it is not very nice to let people know about these nasty things that happen to Ministers because it could possibly upset the result.

In his reply the Premier made a number of fundamental errors. He referred to facts—and they are indisputable facts—as innuendo. It is an indisputable fact that the Minister of Agriculture strenuously opposed (and it is on the record that he strenuously opposed) the application for development of the New Age Church in his street in Unley. The Premier calls that innuendo. I submit that it is a matter of fact, it is on the record and it is recognised by South Australians as a matter of fact. He confuses matters of valid parliamentary debate with nasty little suggestions that he would rather not hear because somehow or other they impugn the image of Mr Clean. In the context, the Premier was goaded, under pressure of parliamentary questioning, into what I acknowledge was an uncharacteristic remark, for which I thought that he would have been man enough to apologise before this (and I think most South Australians would agree with me). He was goaded into an uncharacteristic remark.

Let us look at what goaded him. Day after day he was forced to defend a Minister whose conduct was indefensible. He was sick and tired, as was his colleague the Attorney-General, of defending the member for Unley, the Minister of Agriculture. The front bench Ministers, who have sat pale and silent throughout all this questioning, also must have been sick and tired of what was happening to their Government as a result of their colleague's misdoings.

But what does the Premier then do? The one thing that he cannot stand is ridicule; he just cannot bear it. Few of us can bear ridicule, but the Premier is particularly sensitive to it. The Premier, in a desperate effort to extricate himself from the fact that either he had not recollected (and those were his words), or he had not heard (and those were his words) the member's declaration of interest, suggested that there was something wrong with the shape of the Cabinet table and suggested that there might be a round table.

I am quite sure that, when the Premier adopted the suggestion made by the member for Murray-Mallee, he had visions of himself as a new King John of Camelot coming to South Australia, of Sir Galahad and of Sir Kym galloping down Palmerston Road in order to—

Members interjecting:

The Hon. JENNIFER CASHMORE: Yes, we can see Sir Kym galloping down Palmerston Road in order to slay the wicked dragon of the Unley council and to subvert the provisions of the Planning Act. That is the kind of thing that the Premier had in mind, and it has made him a laughing stock in South Australia. Knowing that, the Premier came into Question Time on Thursday very agitated, very annoyed and very exhausted with all the to-ing and fro-ing of Cabinet in trying to settle the differences between his colleagues. Of course we have heard of the kinds of altercations—that is perhaps a kind word to use—that have taken place between Ministers on these issues. It is well known that not all colleagues of the Minister of Agriculture are pleased with his conduct.

So, the Premier comes into the House in a state of great agitation—one might have almost called him hysterical, and I say that because, when backed into a corner when he could no longer defend, he started to attack and he attacked below the belt.

Members interjecting:

The SPEAKER: Order!

The Hon. JENNIFER CASHMORE: He attacked below the belt and, in so doing, he attacked me falsely, maliciously and unfairly, and I doubt that there is any way in which his attack could be claimed to be in the public interest. The whole affair that led up to these allegations by the Premier is disgraceful and it is recognised by local government, by planners and by the general public as being disgraceful. When interstate visitors come to South Australia and ask the taxi driver, 'What is happening over here? Is there any scandal?', the answer is, 'Yes, Kym Mayes is in trouble.' That is the answer. That is a barometer of which we should all take note. No doubt the Premier (not that he ever travels in taxis) would be well aware of this. I draw attention, Mr Speaker, to the fact that the Premier has been forced to acknowledge—

Members interjecting:

The SPEAKER: Order!

The Hon. JENNIFER CASHMORE: —a whole range of issues. He has been forced to acknowledge that he did not hear the declaration of personal interest; he has been forced into the ludicrous situation of Cabinet needing a round table: and he has been forced to defend a Government press secretary who has issued defamatory material. I think that there are very few people who cannot credit that the press secretary's Minister was fully aware of the issuing of that defamatory material. He has been forced into the circumstances and, in order to get himself out, he thought, 'Well, let's tackle her; let's get her; let's see where we can hurt her most.' I ask members opposite and I ask my colleagues: can any member in this House claim that he or she is, or can be, responsible for the actions of spouses, sons or daughters?

Is there one of us who can claim that? If there is, I suggest to the Premier, along with whoever claims that, that it is apparently okay and fair game to attack someone on the grounds not of that person's compliance with the Act, but in respect of a situation that made compliance difficult. That is the key to the issue. The Premier tried to overlook that, and chose to go straight below the belt and allege that I had breached the Act. I have demonstrated that neither the action of the Government—

Members interjecting:

The Hon. E.R. GOLDSWORTHY: On a point of order, Mr Speaker. You insisted that the Premier be heard in silence. There was nothing like the number of interjections during his speech that you have tolerated during the speech of the member for Coles. There has been an absolute hubbub during the whole of her speech, yet you demanded that the Premier be heard in absolute silence.

The SPEAKER: I accept the Deputy Leader's point of order, though he is not strictly and factually correct. I have reprimanded members, particularly members on my right, three or four times during the past 10 minutes for excessive

interjections and I do so again and ask that the member for Coles be heard in relative silence.

The Hon. JENNIFER CASHMORE: I should not be the slightest concerned about interjections if I did not have a throat infection which makes speaking difficult at the moment. In addressing himself to this issue, the Premier described it as trumped up and he tried to wriggle out from under by saying that it was a passing remark. However, the fact is that it was not a passing remark and that has been well demonstrated by the fact that he tried to withdraw from what he said immediately following. After having said that I had refused to comply in respect of my statement of pecuniary interests, he said, 'I will not proceed with that issue.'

Everyone in the House at that time could see that the Premier was chastened, because he realised from the response on this side that he had breached the normal bounds of parliamentary behaviour at the very least. He probably had not gone even as far as thinking that he had breached the Act, but he had. He withdrew immediately. On the fact that he made the statement (and we all heard him make the statement and we heard in his voice the malice and vindictiveness which was motivated by the fact that he had been backed into a corner); on the fact that he had tried to withdraw almost as soon as he had made the remark; and on the fact that neither the Government nor the Parliament at any stage has stated that I have not complied with the Act; on all these facts it is amply demonstrated that my compliance with the Act has been fully in accordance with the Act, but that the Premier by the way in which he attacked me at Question Time last Thursday has contravened section 61B of the Act in a false, malicious, and unfair fashion. The Premier therefore stands condemned of contempt of this House.

The Hon. D.J. HOPGOOD (Deputy Premier): I shall be relatively brief and ensure that I accord to the Leader of the Opposition a reasonable chance to exercise his right of reply. It seems that the taxi drivers of Adelaide are aghast. That is a gem that should be absorbed and remembered by all members. We have also been told that the Premier is trying to introduce Camelot in this State, and that is another gem that we should long treasure. If the member for Coles really believes that people cannot be held responsible or accountable for that which their spouses or offspring do, she may like to drop a line to Mr Greiner because, as I understand it, that is one thing that will be a feature of the punitive law of New South Wales as a result of his occupancy of the Treasury benches there.

The most extraordinary thing that I have heard so far was the suggestion by the Leader of the Opposition that we should be basing, in part, our conclusion in this matter not on what is on the record but on what he recalls as being said here, even though the noisy interjections from his colleagues apparently prevented *Hansard* from being able to hear that. That is ridiculous. The only basis—

Members interjecting:

The SPEAKER: Order! I call members on my right to order, and I specifically call the honourable member for Murray-Mallee to order. The honourable Deputy Premier.

The Hon. D.J. HOPGOOD: I thank you for your protection, Mr Speaker. The only basis on which this House can make a judgment is on what was said. The Premier has repeatedly refuted the Opposition's claim that in any way he breached section 6 of the Members of Parliament Register of Interests Act. Clearly, the Premier did not publish information from the register, nor did he comment on information from the register. He did nothing more than make a passing reference to a matter of common knowledge, a matter that had been widely reported in the media, that matter being the objection by the member for Coles to providing information to Parliament on the pecuniary interests of members of her family.

On the criteria and standards used by the Opposition in making those allegations, a good many senior journalists in Adelaide would also be brought before the Bar to face charges of contempt. I invite members opposite to be systematic and consistent in these matters. The Opposition has beaten-up these unfounded allegations for purely cynical reasons. There is no substance to them whatsoever: it was a feeble attempt to embarrass the Premier, and it happened to take place just two days before an important by-election. We should not be surprised by that because, as the Premier said, this is not the first time that we have had this sort of behaviour from the Opposition.

Who can forget the Grand Prix ticket freebie allegation by the member for Bragg. He has yet to overcome his embarrassment sufficiently to offer an apology to the Minister of Agriculture. Then, the member for Morphett thought it fair to falsely accuse the Premier of using the State's public building authority to repair his home. Talk about nous! Then, the Premier has already indicated the point taken in relation to the member for Henley Beach because that member asked a perfectly sensible question about the use of artificial sweeteners.

Further, there were the ridiculous allegations against the Attorney-General concerning judicial appointments, something that has been adversely commented on in the media on several occasions. I hardly need to remind members of an article that appeared in the *Sunday Mail* three or four weeks ago detailing some of those tedious, unfounded, and baseless allegations. Finally, we had the ridiculous suggestion that, because the Minister of Agriculture had bid in an auction that turned out to be way out of his ball game in April of one year, when a specific matter in relation to that property came before the Government in February the following year, somehow there was a conflict of interest. That is ridiculous. The member for Murray-Mallee by way of interjection, which I do not know was heard, was surely exhibiting malice of a sort not normally exhibited by members of this place.

Mr Lewis: I don't care—

The Hon. D.J. HOPGOOD: I know that the honourable member does not care. He never cares, but he carries on.

The SPEAKER: Order! I call the honourable member for Murray-Mallee to order for the second time.

The Hon. D.J. HOPGOOD: I do not want to provoke the honourable member in any sort of way, but I simply point out that a series of illustrations have been given by the Premier and by me as a result of which we can say properly to Opposition members, 'Physician, heal thyself.' If we can get anything positive from what has happened over the past two sitting days, we may indeed see a higher standard of contribution made by all members to debates in future. Obviously, there is no breach of the Act here and, when inviting us to draw conclusions on matters that are not even in the record for a purely spurious reason that the honourable member raises, all that members opposite are inviting us to do is to undertake a trivial pursuit.

Members interjecting:

The SPEAKER: Order!

Mr OLSEN (Leader of the Opposition): We have had no apology from the Premier today in relation to his actions last Thursday, although it is quite clear and an indisputable fact that the Premier breached the Act. The Premier attempts

to pass it off today by saying that it was only a passing reference, but when the interjections came from the Opposition benches he realised what he had said and he started to retreat. But it was too late: the Act had been breached.

There is no doubt that he was malicious in his attack on the member for Coles. In his remarks, which were no rebuttal of my comments in this House and no refuting the fact that was placed before it either last Thursday or today, the Premier said, 'What is wrong with the Opposition? Why didn't it take this up last Thursday?' Well, if he had paid one ounce of attention, he would have known that we tried to take it up immediately last Thursday. The Deputy Leader, the member for Light, the member for Coles, and I consistently took points of order with the Speaker last Thursday in an attempt to have the matter debated forthwith. We wanted to take the matter up with the Speaker, but the Speaker did not notice a member of the Opposition standing and, instead, he called the Minister of Education and proceeded with the program. We had no opportunity then to raise the matter and debate it last Thursday.

The parliamentary record will indicate that that is a statement of fact. We certainly wanted to take the point of order then. We wanted to take the matter up at that time, but we were precluded from doing so. In fact, the Speaker invited the Opposition to move a substantive motion—it was at the invitation of the Speaker—and the *Hansard* record should also indicate that. Therefore, the Premier's remarks in his speech today are factually inaccurate, and he ought to go back and check the *Hansard* record yet again just to prove the point.

I want to remind the Premier, in his almost holier-than-thou attitude to matters before this House, of a speech he made in Parliament on 14 February 1978 in relation to the pecuniary interests register. Have a look at the Premier's track record in this Parliament on a previous matter (and I will not canvass it in detail, given the time constraints that are now being applied) when he casts one set of rules for the Opposition now, claiming his Government has a different and more valued set of rules—factually inaccurate, but it is clear and on the record in *Hansard.*

Can I pose a question to the Premier. If the member for Coles has breached any Act why has no action been taken against her? Despite all the huffing and puffing of the Attorney-General who said that he was going to use a sledgehammer to crack a nut, so to speak (that was the quote he made in the *Advertiser* back in 1983 that he was going to take the Police Force into the homes of members to find out the details), he had to retreat and acknowledge that the member for Coles had complied with every section of the Act. The Attorney-General, on the advice of the Solicitor-General, has put that in writing to the member for Coles. Let there be no doubt that the member for Coles has done nothing else but comply with the Act. No-one, including the Government, has taken any action against the member for Coles because they cannot; they have no fact on their side; they have no points on their side to take any action against the member for Coles.

As the member for Coles said last week, the Government was under a lot of pressure because the Minister of Agriculture had a personal interest in this Palmerston Road property. We found out that Cabinet was prepared to invoke section 50—heavy pressure being applied to a small church group which was within its legal rights. As a personal interest matter the Minister of Agriculture encouraged Cabinet to invoke the Act, and subsequent advice to the Government from the Solicitor-General indicated that it had no basis to invoke section 50. So it was a retreat as fast as the Government could go, because it knew it did not have right on its side. What was the excuse it used at the time—because there had been significant construction undertaken on the site. All the church put up was a toilet down the back and it had knocked over a few shrubs. Is that substantial construction? What absolute nonsense. The fact is that—

The SPEAKER: Order! I call the Leader of the Opposition to order. The time allotted for the debate has expired.

The House divided on the motion:

Ayes (18)—Messrs Allison, P.B. Arnold, D.S. Baker, S.J. Baker, Becker, and Blacker, Ms Cashmore, Messrs Chapman, Eastick, S.G. Evans, Goldsworthy, Gunn, Ingerson, Lewis, Meier, Olsen (teller), Oswald, and Wotton.

Noes (27)—Mr Abbott, Mrs Appleby, Messrs L.M.F. Arnold, Blevins, Crafter, De Laine, Duigan, M.J. Evans, and Ferguson, Ms Gayler, Messrs Gregory, Groom, Hamilton, Hemmings, Hopgood (teller), Keneally, and Klunder, Ms Lenehan, Messrs McRae, Mayes, Payne, Peterson, Plunkett, Rann, Robertson, Slater, and Tyler.

Majority of 9 for the Noes.

Motion thus negatived.

SITTINGS AND BUSINESS

The Hon. D.J. HOPGOOD (Deputy Premier): I move:

That the time allotted for—

(a) all stages of the following matters:
Motion vesting land in the Aboriginal Lands Trust;
Royal Commissions Act Amendment Bill;
Statutes Amendment (Coast Protection and Native Vegetation Management) Bill;
Gas Bill;
Electricity Supply (Industries) Act Amendment Bill;
Road Traffic Act Amendment Bill (No. 2) (1988);
Irrigation on Private Property Act Amendment Bill;
Branding of Pigs Act Amendment Bill; and

(b) completion of the second reading of the following:
Statutes Amendment and Repeal (Sentencing) Bill;
Criminal Law (Sentencing) Bill—

be until midnight on Wednesday.

Motion carried.

STAMP DUTIES ACT AMENDMENT BILL

The Legislative Council intimated that it did not insist on its suggested amendment No. 5 to which the House of Assembly had disagreed.

LOCAL GOVERNMENT ACT AMENDMENT BILL (1988)

Consideration in Committee of the recommendations of the conference.

The Hon. G.F. KENEALLY: I move:

That the recommendations of the conference be agreed to.

In moving this motion, I want to commend the members of the conference who had a fairly difficult task in trying to find mutual ground when the positions adopted by the Houses differed to the extent they did. It is a credit to all involved that we have been able to report back to our respective Houses a compromise position that I believe will ensure that the Bill can win the support of the Parliament.

I want to speak briefly about the major matters dealt with at the conference. The fundamental point that all members agreed was whether or not the Parliament would accept the notion that minimum rates should be abolished over a short

period. That was the Government's position and one to which the Government held strongly. However, that view was not shared by the Opposition or by the other House. As a result of very long and tortuous negotiations, I can now recommend to the House that the Government has agreed that the notion of minimum rates should remain in the legislation but that it should be compromised to the extent that no local government authority could have more than 35 per cent of its assessments on the minimum rate. It is the decision of the conference that all local government authorities whose current number of assessments exceeds 35 per cent should reduce it to 35 per cent by the end of the 1991-92 financial year. The Government understands that means that some councils will have to make a quite considerable effort to meet that timetable. Nevertheless, I believe that the councils concerned will be able to do so.

The Government made considerable concessions in relation to a minimum rate, a method of rating for which it has no great enthusiasm at all. We accepted that conferences are times for compromise, and in fact that is what happened. The Government also has accepted the need to not insist upon its amendments to differential rating and has accepted a new amendment which, if it does not meet with the overwhelming enthusiasm of local government and the conference, nevertheless can be seen to bring together into a workable solution all those threads that had been argued. I commend that amendment to the House.

The Government has not insisted that there should be only a one-way movement in terms of rating methods and has accepted that local government should be able to change such methods, provided no change takes place within three years of when the original decision on rating was made. Likewise, the Government has accepted that there should no longer be a one-way movement in the method of paying rates, whether annually, six-monthly or quarterly: the Government has accepted that circumstances could arise where the elected members of council and their constituents believe it is appropriate that there should be movements both ways, and the provision will allow that to happen, here again, on the basis of a minimum period of three years before such changes are made. A number of amendments moved by this House and rejected by the other place, Nos. 1 and 2, and 12 to 17, have now been agreed to.

The major debate centred around the sections enacted under clause 10. As with all conferences, I know that the legislation now being recommended to the respective Chambers does not meet with the full approval of everyone involved in the conference. However, if we are to maintain dogmatic positions and not acknowledge that the overall benefit of legislation can be such as to warrant changes in attitudes among members of the Government and Opposition—in both Houses—many excellent measures would not get into the statute books. I am confident that when this Bill is supported by both Houses it will provide local government with opportunities that hitherto had been denied it.

This Bill is seen by people in local government as being fundamental to their playing the full role that is expected of them within the community, and would have been a great shame had the Parliament not seen fit to allow that to happen. I give credit to those members of Parliament—the Opposition—who do not share the Government's view. The issues were debated at considerable length and with considerable vigour, and I hope that the House of Assembly's approach will be viewed similarly by our colleagues in another place.

I want to end my remarks by recommending to the House of Assembly that it now has a piece of legislation which may not be perfect in anybody's view but which nevertheless is far better than losing the Bill altogether and in essence will provide local government with many opportunities to play a more entrepreneurial role, with greater certainty of revenue and more independence than has hitherto been the case. I commend the amendments to the Committee.

The Hon. B.C. EASTICK: I accept most of what the honourable Minister said, and I accept most of what we now have by way of a substantive resolution before the Committee. Regrettably, I cannot accept one of the decisions of the managers and on that score alone must seek to defeat the whole of the report now before us. That is most unfortunate because I acknowledge what the Minister has said, that the Bill is a much better Bill now than when it left this House.

The compromise reached between the two Houses—indeed, the tidying up of one particular clause which contained a wrong assumption (at least on my part and, I believe, on the part of others)—and a decision taken in another place has allowed, for example, flexibility in the payment of rates, going from quarterly to half yearly payments and subsequently from half yearly back to single payments. This was not picked up in the original amendments carried in another place. By concurrence of all present at the conference that situation has now been corrected and it is possible over a six year period for a council to make a transition from a quarterly payment system back to a once only payment after consultation with the community and after it has been able to demonstrate to that community that it is not in the best interests of the community to have half yearly or quarterly payments. Whether that will happen and just how many councils will move one way and stay there only time will tell, but it is very clear that on that score alone it will be at a cost to local government. Either the individuals will pick up that cost or an incentive will be given to others to pay early, but in the end some will pay more than would otherwise be the case. At least local government will make the final decision on that matter as it will in relation to the valuation method.

The Government saw fit to insert a trapdoor clause in the original Bill that prevented a local government body adopting capital valuation from reverting to site valuation. That matter has been corrected after debate in both places and agreed to by the conference. We now have the situation where the ETSA provisions have been taken from this Bill and included in another Bill which was before this House last week; and that is fit and proper.

The position in relation to differential rating has been found acceptable by the conference. In essence, the provisions that now apply are almost identical to those which applied under the old Act, although there is some variation of terminology and some slightly different aspects with which I am sure local government will learn to live. Regulations will be required in due course concerning the Lands Department's methods of determining valuation. However, all those matters are a little down the track.

Possibly the area of greatest disappointment (other than the minimum rate—and I will come to that matter last) is the alteration introduced in another place by the Hon. Mr Gilfillan, who has, in fact, invented a eunuch. It is nice wording, to the effect that an alternative to local government—

The CHAIRMAN: I interrupt the member for Light to remind him—and this might have temporarily slipped his mind—that he may not refer to the debate in another place.

The Hon. B.C. EASTICK: An amendment to legislation was presented to the conference out of the blue, and it has some problems. One problem is that the Minister is being

quite pedantic at this stage in saying that she will only allow schedule 13 of the Accounting Procedures of Local Government to form the basis upon which the levy may be determined. Local government collectively has indicated very clearly that that is not satisfactory, albeit that it will be better than nothing at all. However, I do not believe that it will cause many councils to move from a minimum rate to that form, because it is one or the other.

Further, we have abandoned an inclusion made in another place which sought to provide for borrowings to be based on all revenue, it now being based on rate revenue. The difference in some local governing areas is quite large. For example, it has been previously indicated that the District Council of Hawker has a relatively small income from rate revenue of about $108 000 and from electricity generation of about $500 000. If the council is to be limited in its borrowings to its $108 000 as opposed to its total fiscal package, it will be disadvantaged. However, the Minister has indicated that due regard will be given to the peculiar circumstances that might apply to Hawker and other places. The Minister would acknowledge that if Hawker or any other area found itself disadvantaged that situation would emerge in subsequent debate on local government matters.

Before the conference got under way, the Government, the Opposition and the Democrat member of the conference received a letter from the Local Government Association of South Australia which I will read into the record. It is dated 28 March 1988 and directed individually to the leaders of the three groups, if I can use that term: the Labor Party, the Democrats and the Liberal Party. The letter is signed by the President of the Local Government Association and reads as follows:

As the conference of the two Houses meets to resolve the deadlock over the Local Government Act Amendment Bill, the Local Government Association seeks to assist the process of the conference in the following ways. We put to the conference that councils generally support the amendments established in the Upper House debate, where the Bill was introduced.

Those amendments very clearly included a retention of the minimum rate. The letter continues:

We recognise that there are many short term and longer term concerns that need to be addressed by all parties in the resolution of the deadlock. It is hoped that the conference may hold the following suggestions in mind when deciding the issues.

Firstly, we believe that the outcomes should lead to better relations between the Government, the Parliament and the Local Government.

Secondly, the result should build upon the progress already achieved over the past decade or so.

Thirdly, the outcome should be capable of wide interpretation across all of the interests involved.

And, finally, the resulting amendments to the Local Government Act should be practical, clear and functional in the hands of the councils.

We feel that it would not be appropriate for us to comment on the individual sections of the Bill at this stage. However, we are available for further consultation if and when required.

I pick up the first important point made by the Local Government Association President, namely:

Support the amendments established in the Upper House debate, where the Bill was introduced.

Very clearly that indicates to members of the conference that they wanted the retention of the minimum rate. As the day progressed we found a whittling away of the support that the Local Government Association, through its senior executive, found necessary to require. I have made no bones about the fact that the Local Government Association executive will have to live with its electorate—the individual councils—because the Local Government Association senior executive has done precisely what the Government sought to do in the introduction of the Bill, that is, to sell out local government on the very pivotal and important issue presented by local government over an extended period, that is, in relation to minimum rates.

Granted, there is a retention of minimum rates by a formula which does not come into effect for four years. Indeed, local government can continue as it is presently at the levels that it is presently, notwithstanding that many Government members have stood and indicated that it is rorting the system and far beyond the pale for local government in some circumstances to be using the rate of minimum rate that they are applying. Eventually, in four years time no local governing body in South Australia will be able to use a minimum rate that affects greater than 35 per cent of the total assessments in the local governing area. That is a significant change to the position that exists presently where the Minister currently in charge of the Bill clearly indicated to us that his council ('council' in the sense of where he is domiciled at Port Augusta) is currently working on the basis of some 84 per cent of all assessments being on the minimum rate. I do not have a document to put before the House which rates each council in relation to either the amount of the minimum rate or the percentage. It is really irrelevant to the debate at this stage other than to say that it makes interesting reading.

We will find that it is open go from now until four years time, precisely on the basis of what is the minimum rate at the moment. The Government was warned of that situation during the debate, but saw fit not to vary its stance. We find ourselves in a position where, because the Government moved to the position it has, against the will of local government, passage of the the report to this House will have to be denied by members of this side of the House. I believe that I continue to speak for local government as expressed to me and my colleagues over an extended period. Yes, there are improvements but, no, we cannot accept that the Government has seen fit to accede to the requirements of local government or a variation of it that would have had a much better end result than that provided in this Bill.

I am pleased to note that one of the variations undertaken by my colleague the member for Elizabeth has been accepted. It is fine tuning in the sense of interpretation. The member for Elizabeth, along with other members who addressed the principal Bill when it was before the House, have been advised quite clearly that there are some other housekeeping matters that the department will consider over the next three to four months. That assurance was again given by the Minister, that she recognised the import of some of those issues.

I mention one in particular, namely, the one that allows for an appeals system for councils drawn into a project and, more specifically, the point that had been made to members of Parliament by Burnside, Stirling and Mitcham councils. Other issues have been picked up, one being in relation to the size of wards and the number of people who may have membership of a ward. Those matters the Minister will take on board.

My vote and that of my colleagues against this measure will not, regrettably, prevent its passage. I say 'regrettably' because I would very much like to have been in a position to give support to the final passage. I do so on all points other than the one I have highlighted in some detail. That point, or the effect of the decision made, will be made known to local government in the very near future. New initiatives within the Bill, which will become an Act, will allow local government to go forward into the next century. I was very pleased to note the Minister of Local Government acknowledging the point that local government will have to show a great deal of responsibility in so far as it puts itself forward in entrepreneurial activities. The provi-

sion is there now, but it cannot be taken as a matter of course that all decisions that local government may take will necessarily be funded or necessarily be acceptable.

The words of the Local Government Finance Authority on this matter will prevail: all projects will need a proper and considered feasibility study and will need to be presented in a very practical financial way. It is the least we could expect and I know that local government generally will rise to it. I only hope that we do not find some wanting to beat the gun, as occurred in Thebarton when rather bogus operations were put up and, but for serious questionning in Parliament, might have become law.

The final remark I would make is that I respect the views put by all members of the management conference on both sides and from both Houses. As the Minister indicated, there was no antagonism but strong debate on a number of vital issues. The end result was mainly, but not totally, satisfactory.

Mr LEWIS: I rise, notwithstanding the assurance that the member for Light has given in this Chamber about the position of the Opposition, to underline that position. Prior to the conference being undertaken not one council on any occasion when consulted by me in the electorate that I represent had anything other than the position that the member for Light has expressed to this Chamber about whether or not the minimum rate should be retained. They are utterly in support of it being retained and, regrettably, I find myself now powerless to do anything about having their wishes agreed to by law.

It is an indictment that, by taking away from local government its right, prerogative and responsibility to be accountable for the decision it makes about what revenue it makes and how it goes about it, shows this Government to be hypocrtical in the way in which on the one hand it says that it wishes to give local government recognition, albeit in the constitution (and that is a load of baloney), because it believes local government should be responsible for itself and its own decisions and, on the other hand, takes them away in this fashion. This Government wins no points in the rural constituency that I represent and there is a large number of local government bodies in the electorate of Murray-Mallee.

Mr BLACKER: I add my support for the comments made by the member for Light. I was not a member of the conference and, therefore, I have picked up only bits and pieces of what happened during the conference, but it was made perfectly clear to me by local government bodies in my electorate, along with the Local Government Association, that this point was not negotiable. That was made very clear and I would be derelict in my duties and going against the strongly expressed views of my councils if I were to be seen to support a compromise.

However, I recognise that many aspects of the Bill have made changes and the changes as recommended by conference are desirable. I hope that the Government will rethink this issue and will bring it forward in a way in which it would be generally acceptable to Parliament, because the outcome of the conference is that the legislation has been improved. To that end, I think that some recognition needs to be given to that fact. However, right throughout the entire protracted debate, the quite clear and strongly expressed view was that the minimum rate issue was not negotiable; no aspect could be negotiated and the councils wanted to keep that at all costs.

Mr M.J. EVANS: I regard the results of most of the conference as eminently reasonable and satisfactory. I am sure that the various participants worked diligently to achieve what is a reasonable compromise in that respect and that has my support, but I find that I am in quite substantial disagreement with the conference result relating to the minimum rate. While I very strongly support the concept that the minimum rate should continue, the idea that the transition can be over this period of time and then cut in suddenly to reduce the limit to 35 per cent (which is a totally arbitrary figure, unless the Minister is aware of something of which I am not) is simply beyond me. Unfortunately, it does not take into account the difficulties which this question was designed to address.

I accept that the Government has very real philosophical and ideological problems with the minimum rate. While I do not agree with that view, I can certainly accept that it exists and the Minister has argued very reasonably for examples in his own area where he found it unacceptable and the principle of abolishing the minimum rate is in some ways far more acceptable than the compromise which the Government has come up with, from the Government's point of view.

We now have a position which will certainly severely disadvantage a significant number of metropolitan council areas where they have substantial numbers of Housing Trust double-unit properties and where those properties are all on identical valuations. The Minister has not explained how a council is to cope with that kind of anomaly. In areas like Elizabeth and Munno Para there are 3 000 to 4 000 double units, all of almost identical valuation, each one of them being on the same level of valuation, be that $29 000, $30 000 or $31 000. Because the properties are of an almost identical construction, naturally they attract almost identical valuations. I am sure that the valuers value them on that basis, so the end result of that is that those councils who lack a smooth bell-shaped curve of their rate distribution will find themselves in the position of moving from 10 per cent of assessments on the minimum rate to perhaps 50 or 60 per cent of assessments on the minimum rate, with a $1 movement in the valuation threshold for the minimum rate.

That is an absurd proposition. In that situation councils cannot fine tune their minimum rate so that they are on 34.9 per cent. They will find themselves moving in whole blocks of valuation, which might perhaps encompass 30 or 40 per cent of their whole assessment base, in one jump. Clearly, that is an absurd proposition. How does the council deal with that kind of difference? Effectively, it will prohibit a small number of councils who have substantial numbers of trust properties in their areas (and such districts are established in this State) from taking advantage of the escape clause, if you like, which the conference has provided and which the Government has adopted, because of the unique distribution of the houses in their districts. That is an unfair imposition on those councils.

What is to apply should apply to all councils. If the Government's original position had prevailed, at least that would have been equitable. I would have argued about the equity in relation to individual areas and about the rationality of the proposal, but at least it was across the board. If the Opposition's original viewpoint had prevailed, along with mine and that of my colleagues here, at least that would have adopted an across the board position which all councils would have been able to use and with which they could balance their books, but the alternative discriminates against a small number of councils, primarily those with large numbers of Housing Trust properties and those who now find that they will be in an untenable position after 1992.

I do not know what arithmetic the Government has done to support the 35 per cent proposition. What survey or analysis of council districts has been undertaken to docu-

ment the effect on those councils of this 35 per cent provision after 1992? What research work do we have to support that? I do not recall reading that kind of analysis in the original economic papers tabled by the Government in its own case against the minimum rate. I have not heard this proposition argued in either House of Parliament. No argument in support of this has been presented in either House, and no documentation has been tabled in support of it. So, we have a total reversal of that position: a whole new proposition has been inserted without any prior research, understanding or analysis on behalf of councils and with absolutely no prior consultation with councils.

Only three or four days ago I stood in this Chamber and had what I considered to be reasoned amendments to the Local Government Bill in many cases dismissed on the grounds of lack of consultation with local government. The Minister stood in his place in this Chamber and argued that, because of the lack of resources available to me as an Independent member, I had been unable to consult with local government; in his favoured position as a Minister, he had been able to undertake that kind of research and, therefore, his version of the Bill was to be preferred over mine. The basis of that argument was consultation. Where is the consultation on this provision, which will vitally affect the interests of a small number of councils? We do not have it. We do not have the economic research to back it up. We do not have the statistical survey of the councils' valuations to support it, and we have no information or understanding from the Government as to the consequences that this will have on those councils. Further, we do not even have information as to the benefits which will flow from it. How will this resolve the evils to which the Minister alluded in Port Pirie and Port Augusta? How will this benefit those people?

We do not have a list of councils and their percentage of minimum rates. I fail to see how amendment No. 10 proposed by the conference will address any of the problems raised by the Government. It creates a whole new set of problems and it is a most inconsistent and unfortunate provision to foist on local government. I believe that the Government would have been better to withdraw its opposition to the minimum rate and to allow it to be debated again at a future point when the Government had been able to convince electors and ratepayers that the provision was in their disinterest and when some positive force had come from the constituents to argue that case because, up until now, that has not been so.

There has not been a single petition to this House. There has not been a single demonstration on the steps of Parliament and hardly a letter has been sent to any member of Parliament—certainly none to me or any other member whom I know. There has been no protest in the community. There have been hardly any letters to the media. There has been nothing, yet the Government sees this as a matter which must be dealt with in this way, and it is prepared to threaten the viability of some councils because of it.

How will the Government deal with a situation where a council moves from over 35 per cent? Is the council to be debarred from a minimum rate if, because of the number of properties applicable to the minimum rate, they will move from, say, 10 per cent to 50 per cent? That will happen. Many councils, because of double units, will make that quantum leap. What will they do? They will be denied the benefits of this provision where other councils, with a more even and homogeneous distribution of their rateable values, will be able to take full advantage of and move to 34.9 per cent.

That kind of unfairness is why I am concerned about the effects of the Bill. One reason why I support the overall provision is that we have until 1992 to change it and in the intervening four years I am sure that the Government will see the error of the provision and will seek to change it on a more rational basis. Given the resources available to the Government, I am disappointed that this is the best that it could persuade the conference to accept and that a more rational basis for limiting the minimum rate (if that was the Government's view) could not have been achieved.

This is the typical compromise of a committee and is indeed the worst of all worlds. I am afraid that local government, in particular a few councils that will be grievously affected by it, will very much come to regret the results of the conference, but many councils will accept it because they will not be affected by it and that is the shame of this provision.

The Hon. TED CHAPMAN: The Local Government Act Amendment Bill is not the subject of debate in this Committee, but this is the opportunity to respond to the report from the Minister. Over some days, the conference has met with the object of arriving at a compromise on the position taken by the Legislative Council and that taken by the House of Assembly. I wish to express my concern over that aspect of the conference that determined this so-called compromise on minimum rating.

There can be no compromise between right and wrong. It is not a situation on which a compromise should have been sought. The subject of minimum rating, as applied to the revenue rating methods adopted by South Australian local government, should be either in or out. To try to determine a position where there may be a fixed number of assessments within local government across South Australia *per se* under the canopy of minimum rating and the remaining percentage of assessments in those respective councils are denied the opportunity of minimum rating is really ludicrous.

The Minister has reported that the conference determined that a 35 per cent threshold should be adopted, and that means that of the total number of assessments in any one council only 35 per cent shall be subject to a minimum rating formula, and that is a situation that I cannot accept. Although not all my councils in Alexandra will be affected, they will be opposed to the determination of the conference. All the councils in Alexandra have demonstrated over the past year or so that they are opposed to interference by the Government in their raising of revenue from the rateable properties in their districts. That principle has been recognised as untouchable by outside authorities and bureaucracies for many years in local government.

It is an arena in which the determination of the rate in the dollar to apply on assessable properties and the minimum rate to apply on those not reaching an amount for calculation should remain within the scope of local government. The Government has again demonstrated its desire to interfere in areas in which it has had no previous jurisdiction and to disturb voluntary organisations of local government to the point where it is absurd and unacceptable for it to do so.

The member for Elizabeth talked about those areas that are loaded with Housing Trust type accommodation and/or land of a significant area that is owned by the Housing Trust. However, that is not the only situation in local government that will be handicapped by this decision of the conference. There are other areas of South Australia where large tracts of land have been subdivided and surveyed for future occupation by shack owners, as in coastal regions and other popular tourist areas, where those prop-

erties, whether or not they have buildings on them as yet, are subject to rates and where those properties are subject to a rate that does not reflect the valuation of the property because the annual valuation, the site valuation or the unimproved valuation of those properties does not allow, on a calculated rate in the dollar basis, for a reasonable revenue to be derived, so the minimum rate fixed by the council has been adopted.

One such council, Port Elliot-Goolwa, has a significant amount of rate revenue and, more importantly, a significant proportion of the overall number of assessments in that local government region that have been for years and years subject to minimum rating. It is in those situations as well as in the specific cases cited by the member for Elizabeth where the councils will be seriously embarrassed by this determination.

On behalf of that council and other councils which will undoubtedly find themselves in a similar position, I place on record my concern in respect of this decision of the conference. Indeed, I go so far as to say that had I been at the conference and in a position to speak I should have let the whole of the legislation go out of the window rather than agree to this element. I suspect that members opposing interference in the minimum rating factor before the Parliament at this time have been blackmailed into a situation where they have had no alternative but to ride it out. I cannot support the determination that has come from the conference and as explained this afternoon by the Minister acting on behalf of the Minister of Local Government.

Mr PETERSON: I have spoken previously in the debate on this Bill on the abolition of the minimum rate and I again raise that matter in speaking on the amendments that have come from the conference. The figure of 35 per cent is an arbitrary figure and someone must make up the rate revenue if a council is to conduct its business. So, the average householder who improves his or her property will have to pay more and will thus be penalised. I do not want Parliament to make this decision: I want a council to be able to decide.

People in this House have been councillors and know that councils can make decisions in their own right. Why should we tell them what to do? They are elected into office by the ratepayers of a city to make that decision. If they mismanage the city, as has happened in this State several times, there are provisions to put a management committee in or an administrator to straighten things out, if it is that bad.

I do not think the council rate situation is that bad. What I cannot work out is the arbitrary 35 per cent figure. Let us say that 38 per cent of houses are actually due for a minimum rate because of the value of the property. Will that extra 3 per cent have to pay more? How do you assess which percentage of the minimum rate pays the minimum rate, and who will pay more because they are not in the 35 per cent? How do you judge the councils that will get 35 per cent?

I gave figures in the House just a few days ago about the present situation in my council area. Over 30 per cent are on the minimum rate. It could be that with valuations in the next few years that that figure could easily go to 35 per cent—it could even go to 40 per cent depending on the circumstances. There are some very old areas in my electorate, and some fairly extensive Housing Trust areas. Does that mean that the private person who is on a minimum rate will pay more, or will the Housing Trust be benevolent and say, 'Look, there is 35 per cent of private ownership on minimum rates, we will take up the bill for the rest.' How do you assess that? I hope the Minister can tell me that when he responds.

There could be properties with the same capital value but, because there are more than 35 per cent, they will have to pay more rates. I cannot understand this arbitrary figure, and I cannot understand how the choice will be made. As I stated earlier, I believe that councils should be given the option of how they rate. If it was considered by the Government and the ratepayers that it was not fair, they have the option of putting in management. As was said in Port Pirie by the Minister handling this issue, a very high percentage of minimum rate properties are situated there. Which of those minimum rate paying properties now will pay more, if you put on the 35 per cent figure? I am not sure what the percentage is, but I would assume it is higher than 35 per cent now paying the minimum rate. Who will pay more, and who will pay the minimum? I cannot understand how this will be done.

An honourable member interjecting:

The ACTING CHAIRMAN (Mr Rann): Order!

Mr PETERSON: Well, of course, I know that the Minister is retiring at the next election and it may not be a problem for him in his electorate. However, I cannot see how it is going to work that way because, as I understand it, we must vote for all of this conference decision: we do not do it individually. I am in a quandry. I think that in the main, I agree with all that is there, but I want to register my opposition to that particular clause. I am locked into voting for the bathwater while trying to throw the baby out. We cannot divide in the vote here today, therefore I will have to support the bulk of it. However, I want to register that I believe that this is interference with local government autonomy and authority. I hope that the Minister, when he responds, can tell me how we are going to handle this situation with the extra percentage of properties that are under the minimum rating capacity.

An honourable member interjecting:

The ACTING CHAIRMAN: Order!

Mr PETERSON: Well, I am not putting the arbitrary figure. This conference has put forward an arbitrary figure of 35 per cent. I am not sure who voted for it, but I think that the Democrats, these great protectors of the free, voted for this 35 per cent. My position on this is extremely clear: if it is not, I will read from *Hansard* again. However, I believe that councils should have the authority to handle rates as they wish, and given that we now have the 35 per cent figure in this Bill, I want to know how the extra above 35 per cent will be rated. I wait with bated breath for a response from the Minister.

Mr D.S. BAKER: This Local Government Act Amendment Bill has been widely debated in the community, and local government has held a very strong view on it. I would have thought one of the cornerstones of democracy—and I think that was what was being alluded to by the member for Port Adelaide—sorry, Semaphore; he was going to stand for Port Adelaide but decided not to—is that the Federal Government is accountable for its actions and is accountable to electors or voters if those actions are inflicting hardship upon the community in general, as the State Government is accountable for its actions to the electors within the State boundaries. I believe that by any democratic principle, local government should be accountable for its own actions and also should decide where it will go. That is what democracy is all about.

I cannot understand why the Minister insists on keeping within the legislation some of the amendments, particularly amendment 7, which provides that the council has to obtain the Minister's approval all the time. Surely local government

is mature enough to be able to make its own decisions or to be accountable at the next election to its ratepayers. Further, in amendment 10, this Government insists, for very dubious reasons, on usurping from local government its right to fix whatever rate it considers right and proper and to be accountable at the next election for those decisions. Why would any government want to do that if it were not for some ulterior motive? It has been alluded to in the debate that there is an ulterior motive: in other words, it is trying to protect some of its own interests.

As the member for Semaphore has said, we are bound to support the recommendations as they stand, but it is very pertinent that we look very carefully at amendment 10 which provides that after the financial year 1991-92, the number of properties in an area subjected to an increase in the amount payable by way of rates shall remain at 35 per cent. What happens to a council that finds it gets to 38 per cent? What will it do? Will councillors then invite the State Minister to come and help them sort it out, or will they say, 'No, we will drop some of our rating to get below that 35 per cent and we will not include those properties in that minimum rate.' One of the most important things they will have to decide is whether they drop off some of the Government properties or some of the private properties. I warn this House that if ever anything was able to be manipulated by a State Government in this State, it will be the amendment to section 10 of the Act, and this 35 per cent minimum.

Will the Government then lean on the council and say, 'We think you will have to drop off some of the Housing Trust rates. Some of those assessments will have to be dropped because, after all, we are the overriding people who have this power.' Or, will they say at some future stage, 'We think it ought to come down to 30 per cent because it is affecting us in a financial manner that is not in the best interests of this State.' Amendment 10 will be unworkable. It will be further amended before 1991-92, because the Government has done no research on it whatsoever. It is absolutely untried, and I say to this House that, well before that time, it will have to be amended because it will be proved to be unworkable.

It is an absolute abrogation of councils' rights for the State Government to interfere with local government in this manner and take that basic right away from them; that is, for the council to make the decision and then be accountable to the ratepayers for the decision that is made. There are some very good things in the Local Government Act Amendment Bill, including some things which councils have been pushing to achieve for many years. On that side of it, I compliment the Government, but on the very basis of section 10 and the very fight that local government put up to retain its autonomy, it has been let down very badly, and the compromise will be proved to be unworkable.

Mr MEIER: It seems to me that what we have coming out of this conference is an indication of the determination of the Minister, a Minister who quite some time ago indicated there would not be any change to the concept of minimum rates but then said that minimum rates would be abolished and has stuck to that principle very firmly. I think she has stuck to that principle rather strangely because of the Government's advocating that people in the lower economic levels should be given special rights and conditions. However, in this case and with this new fangled formula where the minimum amount may not exceed 35 per cent of the total number of properties in the area, in my opinion it is just unbelievable.

I understand that some councils have up to 80 per cent or more of their properties on minimum rates. Some of those councils represent areas where people are generally in low economic belts. In other words, the council recognises the situation that the ratepayers cannot pay an excessive amount. Now, the Minister introduces the minimum rate and says, 'We will not let you charge the minimum rate for so many. You will have to limit it to a maximum of 35 per cent.' The Minister shakes his head, but he will have to acknowledge what I mentioned in my second reading contribution concerning the comments of some of my councils. One council had gone through its figures, and indicated that, if the minimum rates are abolished, it would mean an increase in rates for the majority of the population of at least 20 per cent. The Minister seems to be acknowledging that yes, that is fair. Hit them harder, that is the way. We, the State Government, have shown them how to tax; tax the little man; tax the middle man; tax the high man; hit them hard.

The Hon. G.F. Keneally interjecting:

Mr MEIER: It is all right for him to start interjecting, but that will be the reality of it. Why does not the Government learn? At Port Adelaide on Saturday, what was the swing—up to 12 per cent our way. Yet Bob Hawke was trying to say that he does not play golf all the time and does not frequent the casino all the time. He is considerate of the small man, but we see coming out of the conference that the small man is being ignored. I know that the Minister will get up and try to twist the facts, but the facts are that this will not help the lower economic person. It will simply see an increase in rates throughout most councils, and it is a shame that local government has to be landed with these sorts of provisions, and that they do not have the rights to determine their own way, as the member for Victoria and others have indicated.

In my electorate, the Mid-North Local Government Association and the Yorke Peninsula Local Government Association will be anything but pleased with this change. They have brought their views to me on many occasions. I have heard the views from time to time of virtually all councils: they oppose the abolition of minimum rates. The Minister's ears have been shut, and it seems a tragedy to me that we will have to wear this.

Mr D.S. Baker interjecting:

Mr MEIER: The Cabinet has had its ears shut, too. That is indicative of the way that matters have been proceeding in the past week or so. Let us look at this: it states, 'After the financial year 1991-92' and then away we go. In other words, the Government recognises that it is a very sensitive issue, and that if it is brought in in a couple of years or so—and I suppose it is only about three to four years—the consequences would be very negative. In an earlier debate today we heard how this Government has a great habit of not releasing anything until after an election. Then it is all right, and the people will forget about it by the time of the next election. When are we due to go to the people? In two years time, the beginning of 1990. So, it is quite clear that the Government is saying, 'Let's get this out of the way before we go to the people again, and hopefully they will have forgotten about it. We can't have it coming in at the same time we go to the people, so give it at least a year's extension to clear the decks', so to speak.

Mr D.S. Baker interjecting:

Mr MEIER: As the member for Victoria says, certainly they will not be in Government and we will immediately rescind it. It is not for me to comment on policy, I am not on the front bench.

The Hon. H. Allison interjecting:

Mr MEIER: Thank you, the member for Mount Gambier, I can have a go; certainly that is my right and privilege,

and I know how I would stand on that particular issue. If I have not made that point clear it shows again that the Government has not got its ears open at all. It is a pity when so much of this Local Government Act Amendment Bill has positive features and will help local government, that the Minister continues to be so dogmatic as to insist on the partial abolition—I suppose we could say in this case—of the minimum rate. I hope that the Minister representing the Minister of Local Government in this House will have given serious consideration to the fact that this measure, as it has come out of the conference of managers, is a negative measure and therefore should not be proceeded with.

The Hon. G.F. KENEALLY: I want to respond very quickly. I know that the honourable member for Light has some further comments to make, but I want to respond while that last contribution is fresh in the minds of the Committee. Some members of this Committee seem to misunderstand the effect of minimum rates. It is the application of minimum rates at an artificially high level that puts taxes on the people less able to pay. It is the minimum rate that is regressing. That is the method by which people in the community who are less able to pay rates are required to pay the minimum rate. The burden is spread over the people less able to pay.

An honourable member: That is not right.

The Hon. G.F. KENEALLY: That is right. The one exception to that is the one that the member for Elizabeth has raised. I think that to some extent that has not been discussed much in the debate, but the honourable member for Victoria raised it as well. The suggestion by the member for Victoria—and by the member for Elizabeth—is that the reason the Government is opposed to the concept of minimum rates is because of Housing Trust rentals. It is not because of Housing Trust rentals at all. May I say this: if as a result of reducing the number of assessments that can be rated at the minimum, the Housing Trust has a lower bill so that it can build more welfare houses in the member for Goyder's electorate, the member for Victoria's electorate, and mine, I am not too sure that that is a bad thing. I do not think that anyone should have to apologise for that. The role of the Housing Trust is to provide housing for people in South Australia, and its ability to do that is affected by its rent burden.

However, the member for Elizabeth's position and the one that he articulates I am very well aware of. I have exactly the same sort of electorate. I want to make the point that there is one thing that the member for Elizabeth said that needs to be corrected. He said that I pointed to the evils in what Port Augusta and Pirie had done. I carefully did no such thing. What I said was that the councils in Port Augusta and Port Pirie very astutely used the system that was available to them to maximise their income. I said that I did not blame them in their circumstances for taking advantage of what the Government allowed them to do. I did not address them in terms of evil at all and I do not now.

If the system was inequitable, they know my views on that and I do not back off from that, I fall short of describing them in those terms, because I am well aware, as is everybody here, that this particular debate and the allegations made about me by people in this House will be the subject of comment in my electorate, being the Minister who has carriage of the Bill. If people want to make politics out of it, they can. I am not accusing the member for Elizabeth of doing that, but I point out to the Committee, so that it is on the record, that at no time did I call it an evil. What I am saying is that some councils are taking advantage of a system that was never proposed in the first place to allow the extremely high level of minimum rates that apply in some councils.

I will get to one of the points that the member for Elizabeth raised soon enough. Very nearly 50 per cent of councils in South Australia have a minimum rate component of less than 35 per cent. That has nothing to do with the decision that was made; it was purely an arbitrary decision. The Government wanted abolition of the rate. The Lower House wanted the abolition of minimum rates, while the Upper House wanted retention of minimum rates. As always in conferences, as the honourable member said, decisions are arrived at that no-one is terribly happy with, but one lives with them because the ultimate end is to get the Bill into operation. That is what has happened here.

I am the message carrier. I am bringing back to this Committee the decisions that 10 good, honest, and true people decided upon at a conference. That is the decision that was made. It is certainly not the decision that we would have liked to have been made. The member for Elizabeth has stated that it would be far preferable if the whole minimum rate was abolished, and the Government would have preferred that. We think that is preferable to the position that we have.

The member for Semaphore wants me to tell him how his council or any council will arrange its rates to comply with the 35 per cent. Almost 50 per cent of the councils of South Australia now have minimum rates of less than 35 per cent of the total assessment. I suggest that his council should go and talk to those, not to me. They should go and see what other councils do. There are provisions in this legislation that would allow a council that is even slightly entrepreneurial or innovative to be able to make decisions that would allow it to accommodate the 35 per cent.

I want to make the other point that the decision that the Government has reached in terms of the 35 per cent is one that the LGA executive found not to its liking, but one that they could accommodate. So, we have not been doing this in total darkness. The LGA believed that 35 per cent of assessments on the minimum rate was a far better proposal than the legislation favoured. Members may not agree with that, but the LGA agreed with that and we responded to the LGA view that that was the case because we felt that from our perspective some significant ground had been made.

In doing that the Government has conceded a number of very important points. Within the four year period that is available to councils there will be an opportunity for them to be able to make many adjustments. I am absolutely certain that councils have already considered the options that they may have to study if the Government's wishes are to be approved within the Parliament. So, councils are already thinking innovatively.

The other criticism that the member for Elizabeth made—and I have a great deal more faith in local government than he sometimes has—and he may have been putting the worst possible perspective on it when he suggested that all councils would be rushing up to 34.9 per cent of their minimum rate. He suggested that councils will take advantage, and move up to 34.9 per cent. I reject that. I think that councils would know the will of the government—and in fact, let me say that it is my view, but I am not the Minister, so I cannot speak on her behalf—if there was this upward movement of minimum rates of councils rushing up to 34.9 per cent, the Government will look at that and have a measure back in this place pretty quickly.

While we did not cap the existing number of councils' assessments on the minimum rate, because we thought that

it was inequitable to cap some at 10 per cent and others at 35 per cent, nevertheless the Government would have to examine anything seen to be a deliberate attempt by councils which hitherto had no desire to increase the number of minimum rate assessments suddenly to increase that number. I have not discussed this matter with the Minister at any length and she is better able to state her policies than I am. However, that is a proposition that would, I expect, get more than passing consideration.

I make the point again that the Government understands that some councils have greater difficulty with this proposal than others. We understand that the overwhelming majority of councils will have very little difficulty with the 35 per cent anyway. Some councils have considerable difficulty and we understand that.

The Government, through the Local Government Department, will be assisting those councils in what way it can. I happen to believe that councils are and can be innovative. Once they know the rules, it is surprising how quickly they can adjust to the new rules to their own advantage and that of the electors they serve. I have no great difficulty with that proposal.

I repeat that, as the member here representing the two councils with the greatest number of assessments on minimum rates in South Australia, I do not want to be lectured by anybody about minimum rates, their impact and how difficult it is. I do not need those lectures. I represent the heartland of the problem. However, I also represent the heartland of the problem so far as excessive use of the minimum rate is concerned and, whether or not we are prepared to admit it in this Committee, we all know in our hearts that excessive use of the minimum rate is not a desirable method of rating. I suggest that, if the Housing Trust was not a matter for consideration in this total question we would not even have had the conference. My view is that it is the rates that the Housing Trust pays that are of major concern to some participants, and I understand why.

I make the point for the benefit of the member for Goyder (who is no longer here), who seems to believe that the abolition of minimum rates is a recipe for higher rates on low income people, that it is not. The existing system does that. In any event, it is up to councils, through the rate provisions available to them, to make the decisions for which they are more strictly accountable.

The moment we put up the minimum rate, another 5 per cent of assessments go up by 10 to 20 per cent. A whole group of assessments are picked up and bundled together into the minimum rate. If we happen to strike a rate in the dollar that has closer affinity to the costs, and if we have to rate differentially or in accordance with the provisions available to us, councils are seen to be more accountable. Whilst the minimum rate is effective in revenue raising, it takes away from council the responsibility of making sensible rating decisions over a whole range of assessments.

Mr M.J. EVANS: I apologise to the Minister if the strong principles I hold in this matter have caused me to use overly-colourful language in relation to his views on the matter. I am sure that he accepts that I intended it in that spirit. It seems that we have not had a rational explantion of the basis of the 35 per cent, nor has the Minister sought—

The Hon. G.F. Keneally: It's a decision of the conference—I'm a message carrier.

Mr M.J. EVANS: The Minister may be a message carrier but was also a participant. His affirmative vote would have had to be present to carry the motion.

The Hon. G.F. Keneally: It's the best we could achieve.

Mr M.J. EVANS: Notwithstanding that, Governments have a special responsibility to be accountable and responsible and cannot shrug off that responsibility (I am referring to the Government as a whole and not to the Minister as an individual) simply by saying that other people—

The Hon. G.F. Keneally: It is 35 per cent.

Mr M.J. EVANS: If the Minister had come into this place and tabled a document showing the councils and their current percentages in support of the 35 per cent, the position might have been clearer. Perhaps he might undertake to have such a document prepared as this House has not previously been able to debate the merits of the matter and it would be a useful document to be made available. The Minister has not addressed the points about the 34.9 per cent. I was not suggesting that every council in the State would irresponsibly rush to the threshold, but it would be perfectly lawful and more practical for many councils to finetune their minimum rate so that they achieve their objective if they wish.

The Hon. G.F. Keneally interjecting:

Mr M.J. EVANS: At the moment. But, in 1993 that option will not be available to a number of councils including the council I represent (the Elizabeth council) or the other council that I represent (Munno Para). I suggest it will also not be available to a number of other electorally based areas where there are, by coincidence, large numbers of Housing Trust double units. That is a case of one in, all in. While many councils will have the option of finetuning to a desirable level, those councils that need it most will not even be able to get anywhere near the 35 per cent. They will be down at 5 per cent because there are—

The Hon. G.F. Keneally: Tell them to use the levy.

Mr M.J. EVANS: If of course the Minister in her wisdom allows an adequate level of levy to be prepared—and that is the unknown that the minimum rate does not carry. The point I was making was not that everyone would rush to the barrier but that some would lawfully and practically be able to do it, whereas others who need the assistance most will be right down at the bottom level. If they increase the minimum rate by one more dollar, another 3 000 or 4 000 properties will be included in one stroke. Those are the very people who need Government assistance but will be denied it. That is the practical difficulty that I was seeking to raise.

This amendment speaks about the amount payable by rates. Do I take that to mean that if a council granted a ratepayer a rebate under its new found powers to do so, and that brought the amount payable down by less than the minimum rate, that property would then count? Is it the amount payable literally on the final rate bill that is relevant here or is it a theoretical calculation of the minimum rate? In other words, are councils able to finetune the 35 per cent by paying some ratepayers' rebates and therefore bringing down the amount payable by less than the relevant amount? I ask the Minister to clarify that as it will be an important point in knowing whether a council initiated rebate will affect the 35 per cent limit. I notice that the second line of the amendment speaks of 'subjected to an increase'.

In other words, if in 1992 councils impose a certain level of minimum rate, will that enable them to carry that forward for a couple of years, because those other properties will not be subject to an increase if the minimum rate stays the same? Perhaps the Minister might not be able to comment on the second point, but more importantly he might comment on the first point in relation to the rebate question, because if councils were able to effect that 35 per cent by paying a rebate I think that would be an important area of finetuning. Otherwise, I accept what the Minister said.

It is an ideological question, but I think that, even if he does not speak for the Minister of Local Government, if I could be assured that he speaks for his colleague the Minister of Housing and Construction, in relation to the Housing Trust using the millions of dollars (which it would gain from total implementation of this in 1992) to increase the amount of welfare housing and not simply to reduce the trust deficit, which I suggest might be a more likely outcome, I would be satisfied. At the moment the trust has a $5 million-odd deficit. I suggest that the most likely outcome of additional funding being made available to the trust by way of reduced expenses is for a diminution of the deficit and not an increase in expenditure. I wonder what in reality we will see.

The Minister was very confident when he spoke about the increase in welfare housing, but really, despite his best intentions in that area, when he speaks of the emotions in this matter I am sure that his own heart would be in the increase in welfare housing or a reduction in trust rents. I suggest that his more dry economic colleagues may find it expedient simply to use that money to reduce the Housing Trust deficit rather than to increase the expenditure on welfare housing.

The ACTING CHAIRMAN (Mr Duigan): Order! That is straying from the nature of the conference report which we have before us. I admit that in passing the Minister referred to that. I hope that the member for Elizabeth is referring to it only in passing also.

Mr M.J. EVANS: Certainly. I do not seek to press that point further at this stage, but when we examine the trust budget in years to come I am sure that it will come out in subsequent debates. I seek clarification of that one point from the Minister, because I think it is an important matter. I also appeal to him to seek from his colleague the Minister of Local Government a definitive table of council percentages in this matter, so that at least the Committee can, if not retrospectively, at least examine the statistics to ascertain the basis of this 35 per cent. Unfortunately, I do not think the conference had access to such a table; obviously, if it did, the Minister would have spoken about it, but I also think that the discrimination evidenced by this proposal is a serious point.

The Hon. G.F. KENEALLY: I will raise the honourable member's request for some statistical information with my colleague the Minister of Local Government. The first query is a question of drafting and I will discuss this matter in further detail with the officers. I have been informed that it refers exclusively to the example where rates are coming up to the 35 per cent rather than to the situation where councils may come down to the 35 per cent. As this message will go to another place, perhaps the honourable member's question can be examined. My colleague in another place may then be able to respond in a more detailed way when she deals with this measure there. At this stage I am having some difficulty with the drafting advice that is available to me and I think it is more appropriate for Parliament as a whole and for people who want to read the record of this debate that the question be dealt with in the place where it can be dealt with more effectively.

The Hon. B.C. EASTICK: I am pleased that the member for Elizabeth picked up the question relative to statistical detail. It was requested four months ago, but such information has not been forthcoming. The use of statistical detail in the answers from the Minister has been quite refreshing. That information was not even available to the conference. When the Minister provides the information to the member for Elizabeth, I hope that he will make it available to the Committee by inserting such statistical detail in *Hansard* in due course.

The procedures of this place require that one motion be considered. We are not in a position of being able to treat the 17 amendments separately and, because amendment No. 10 is not acceptable to members of the Opposition, we have no opportunity to identify our abhorrence of what has taken place other than to vote against the whole package. It has been well defined to the Committee that a number of other measures are quite effective and that they improve the Bill. Bearing in mind the intrusion upon local government and the interference with its minimum rate basis, which we suggest is not in the best interests of local government (although its executive has seen fit to give it an accolade), we will vote accordingly.

The Committee divided on the motion:

Ayes (28)—Mr Abbott, Mrs Appleby, Messrs L.M.F. Arnold, Bannon, Blevins, Crafter, De Laine, Duigan, and M.J. Evans, Ms Gayler, Messrs Gregory, Groom, Hamilton, Hemmings, Hopgood, Keneally (teller), and Klunder, Ms Lenehan, Messrs McRae, Mayes, Payne, Peterson, Plunkett, Rann, Robertson, Slater, Trainer, and Tyler.

Noes (18)—Messrs Allison, P.B. Arnold, D.S. Baker, S.J. Baker, Becker, and Blacker, Ms Cashmore, Messrs Chapman, Eastick (teller), S.G. Evans, Goldsworthy, Gunn, Ingerson, Lewis, Meier, Olsen, Oswald, and Wotton.

Majority of 10 for the Ayes.

Motion thus carried.

CHILDREN'S PROTECTION AND YOUNG OFFENDERS ACT AMENDMENT BILL

Second reading.

The Hon. G.J. CRAFTER (Minister of Education): I move:

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

This Bill proposes amendments to the Children's Protection and Young Offenders Act 1979 in relation to procedures for dealing with children in need of care, the issuance of transit infringement notices to children and the interstate transfer of young offenders.

Children in Need of Care.

The amendments to the Act dealing with children in need of care arose out of a recent review of Part III of the Act. The review was conducted by Mr Ian Bidmeade.

The review arose out of a debate between lawyers acting for parents concerned that procedures for intervention by a State authority should ensure that parents have the right to argue against intervention, and Community Welfare workers concerned that the interests of the child should come first and that procedures for intervention should not be so cumbersome as to increase the risk to the child.

Increasing numbers of in need of care applications have reflected the substantial growth generally in notifications of child abuse to the Department for Community Welfare in recent years. The number of children subject to notifications increased from 1 941 in the 1985 calendar year to 3 381 in the 1986 calendar year. In need of care applications increased from 100 in 1985 (involving 129 children) to 153 in 1986 (involving 192 children).

Whilst several reviews of in need of care proceedings have been undertaken within the Department for Community Welfare, the Bidmeade review was the first independent, thorough examination of the legislation and procedures since enactment of the Children's Protection and Young Offenders Act in 1979. The review operated from January until September 1986. Public submissions were sought through advertisements in the newspapers and specified parties were also approached.

The draft Bill attempts to resolve some of the problems highlighted in the report namely:

- the need for the legislation to state unequivocally that the interests of the child are paramount;
- the need to introduce an independent perspective to the decision making process;
- the need to give greater information to parents and guardians about in need of care applications and proceedings;
- the need to increase the range and type of orders available to the court.

The draft legislation does not adopt all of the recommendations set out in the Bidmeade report. One of the recommendations in the report is that the recommendations of the Task Force on Child Sexual Abuse regarding emergency procedures should be implemented. Under the task force proposal, an interlocutory protection jurisdiction would be set up in the Children's Court to provide the court with a wider range of options in dealing with emergency cases of abuse. The reasons for not including the new interlocutory protection jurisdiction have been set out in full in the Evidence Act Amendment Bill 1987 report. The Government considers that there is a need for greater community debate over the proposed jurisdiction.

The draft Bill amends the Children's Protection and Young Offenders Act 1979 to make it clear that the provisions apply to children in need of care or protection. A new provision is inserted to ensure that any action taken under Part III is taken with the interests of the child as the paramount consideration.

The Bill provides for the repeal of paragraph *(ca)* of section 12 (1). This provision was enacted by Parliament in 1986. However, it has not been proclaimed because of the concerns expressed about the width and direction of the provision. The use of the term 'unfit guardian' was criticised in the Bidmeade report as allowing the imposition of class values and assumptions on guardians. As recommended by Bidmeade, paragraph *(ca)* will be replaced by a 'same household' provision. Accordingly, the grounds for making an application under section 12 are extended to include a situation where a child has been maltreated by someone living in the same household, other than the guardian.

The Bill adopts the approach recommended by the Bidmeade report regarding the need for improved case planning and management. The Bill provides that, except where it is not practicable, the Minister should before instituting an application, cause a conference to be held between appropriate members of the Department for Community Welfare and the Children's Interest Bureau. The conference would be held with the purpose of advising the Minister on what action should be taken in relation to the child.

The officers from the Children's Interest Bureau would provide an independent perspective from the department and advocate for the child's best interests. The officers would be able to challenge the case plans presented by the department and ensure that the child's interests are the central focus of the decision making process.

The Bill also provides for increased information to be given to guardians about proceedings. The Bill provides that, except where the Minister considers it not to be in the best interests of the child, certain information should be given to a guardian before an application is made. The information would include the likely action under section 12, possible outcomes of an application and the availability of legal advice and support services. This would enable guardians to be more fully apprised of their rights before an application is made. In addition, the Bill provides that, except in emergency cases, a minimum period of five days notice of the hearing should be given to parties who have been served with an application. This should allow a guardian adequate time to obtain legal advice/representation before appearing in court.

One of the most important aspects of the Bill relates to the extension of the range of orders available at the interim and long-term stage of proceedings.

At the interim stage, that is, where proceedings are adjourned under section 16 of the Act, the Bill provides for the court to place the child under the guardianship of the Minister, to provide for the child to reside in a certain place, to direct that a guardian take specified steps to secure the proper care, protection or control of the child, to make orders for access if guardianship has been given to the Minister and to direct the Minister as to how guardianship powers should be exercised.

With respect to long-term orders, that is, orders under section 14 of the Act, the Bill enables the court to give guardianship to the Minister or some other specified person. Contrary to the Bidmeade recommendation, the Bill retains the Director-General's control order at this stage. The Director-General's control order is a useful option for the court where guardianship can be left with the guardian but some aspects such as the health, education or welfare needs of the child need to be specifically regulated. If a person residing with a child has maltreated the child and is a party to the proceedings, that person maybe given directions as to contact with the child. The Bill also provides for residence and access orders to be awarded by the court, for directions to be given as to how the Minister (or any other person to whom guardianship is given) should exercise the powers of a guardian.

The wider range of orders will allow the court greater flexibility in providing for the individual needs of a child subject to an application.

The mandatory requirement in section 14 (2) for an assessment panel to prepare a report before a guardianship order is made has been removed. Instead the general power of the court to order reports in section 17 (4) has been extended so that the court can call for reports to assist it in making any determination decision or order under Part III of the Act.

As recommended by the review, the Bill requires the expeditious handling of in need of care matters. The 28 day adjournment period has been extended to 35 days to reflect the problems experienced by country courts on circuits. However, the number of adjournments without the Senior Judge's approval has been reduced to one. These measures, together with the provision for pre-trial conferences, should encourage the speedy resolution of in need of care matters.

The Bill also adopts the Bidmeade recommendations regarding the mandatory representation of children and the need to provide an opportunity for a child to make representations to the court. This will enable the court to consider and give appropriate weight to the wishes of the child.

Further, the Bill sets up a more independent review process. The Bidmeade report recommended an annual court review of all cases where the Minister is given guardianship of the child. A court review would be an expensive and

time consuming exercise. It would have significant resource implications. The Government acknowledges that a greater emphasis needs to be placed on reviews. However it does not consider that a court review would be an efficient use of limited resources. Therefore, the Bill provides for an annual review of orders where the Minister is given guardianship. The review would be conducted by a panel constituted of a person from within the department, and an independent person representing the child's interests. Where resources permit the independent person would be an officer from the Children's Interest Bureau.

The Government has considered the recommendations made by the Bidmeade report and considers that the resultant amendments to the Children's Protection and Young Offenders Act will benefit all parties involved in in need of care proceedings.

Transit Infringement Notices.

The Bill proposes an amendment to section 25 of the Act to enable children aged 15 years and over to be issued with Transit Infringement Notices (TINS).

In 1981, the State Transport Authority Act and Regulations were amended to provide for certain offences to be expiated. The object was to reduce the incidence of fare evasion and reduce costs by deterring vandalism. On 30 July 1984, the authority authorised personnel to commence policing the Act and Regulations by issuing TINS to adult offenders. TINS cannot be issued to juveniles as this action is not authorised by the Act.

TINS issued to adults may be expiated by the payment of $50. However, since the inception of the TIN system it has been found that 62 per cent of all offences are committed by children aged between 15 and 17.

Of a total of 14 762 offences committed between 30 July 1984 and 31 October 1987, 11 452 were fare-related and 6 353 were committed by juveniles aged 15 to 17 years.

Currently, juveniles aged between 10 and 17 who have committed breaches are subject to the issue of internal offence reports. If it is a first offence, the matter is raised with the children's parents or guardians by letter. For subsequent offences, depending on the gravity of the incident, the parents or guardians are visited by an authority officer in an attempt to ensure that the breach is not repeated. In the event of the child committing a serious offence or multiple offences, the matter is referred to the Department for Community Welfare which then decides whether the matter should be handled in one of four ways:

(a) appearance before a children's aid panel;

(b) police caution;

(c) court action;

(d) no action.

For children under 10 years of age, parents are contacted for minor breaches.

Following the introduction of TINS comparisons were made between statistics maintained from August 1983 and July 1984, and from August 1984 to July 1985. It was found that the average percentage of fare irregularities detected in those periods had dropped from 0.33 per cent of passengers checked to 0.20 per cent.

It is expected that the issue of TINS to children aged between 15 and 17 years will reduce the level of fare irregularities in this age group.

The expiation fee will be set under the State Transport Authority Act at $20.

Interstate Transfer of Young Offenders.

The Bill currently before Parliament introduces a new Part VIA into the Act to provide for the interstate transfer of young offenders.

In 1982, the then Minister of Community Welfare indicated that, in the interests of young offenders, it would be desirable to establish a mechanism for transferring a young person back to his home State/Territory following a court appearance in another State/Territory.

At South Australia's initiative, the topic of the interstate transfer of young offenders was considered by the Council of Social Welfare Ministers. In June 1983 the Council resolved that each State/Territory would develop legislation with a view to achieving complementary provisions for the transfer and reception of juvenile offenders under custodial order. It was envisaged that in any legislation the following principles would be accorded paramount importance:

(i) That the rights of the juvenile not be diminished by the transfer.

(ii) That the transfer have the effect of acquitting the order in the State/Territory in which it was made and imposing a liability in the receiving State/Territory according to the laws of that State/Territory.

(iii) That the provisions apply only to juveniles on sentence, not on remand.

(iv) That, unless there are special circumstances warranting the contrary, the consent of the juvenile to such a transfer be mandatory; and

(v) That the length of detention not be increased as a result of the transfer.

Since that time, the matter has also been discussed by the Standing Committee of Attorneys-General. However, it was eventually decided that uniform legislation would not be introduced but that each jurisdiction would take whatever action it considered appropriate. So far, Northern Territory, Queensland, Victoria, Tasmania and New South Wales have either passed or prepared legislation on this matter.

The Bill provides that responsibility for dealing with an application for transfer will be dealt with by the Minister of Community Welfare. This is consistent with the Minister's responsibility for youth training centres under the Children's Protection and Young Offenders Act. Before making any decision on a transfer the Minister would need to be satisfied that:

(i) any rights of appeal have been exhausted;

(ii) the young offender will be dealt with in substantially the same way as if he or she had remained in the correctional system of this State;

(iii) the transfer is in the best interests of the young offender; and

(iv) the young offender consents to the transfer.

However, where special reasons exist a child's failure to consent can be overridden. Special reasons could include such matters as health, education, family or welfare considerations. The young offender must also be allowed a reasonable opportunity to obtain independent legal advice. Any decision by the Minister to agree to a transfer is subject to ratification by the Children's Court.

The Bill also authorises the Minister to consider requests for transfer from interstate. The Minister is required to satisfy himself of specified matters before accepting a request in respect of an interstate detainee. The Minister must be satisfied that:

(i) the young offender is over 10 years of age;

(ii) there is in force in this State a law that substantially corresponds to the law against which the young offender offended;

(iii) the young offender is not liable to detention for an indeterminate period; and

(iv) the young offender will be dealt with in this State in substantially the same way as if he or she had remained in the sending State.

The Bill also provides for the transfer of probation/supervision orders for young offenders. An application can be made for a young offender who is subject to conditional release from a youth training centre to transfer interstate and to continue to be subject to the requisite supervision. Likewise, provision has been made to allow a young offender, who has been granted conditional release interstate, to be supervised in this State.

Finally, the Bill provides that the escort in whose custody the young offender has been placed will have lawful custody of the young offender while in this State, and that a young offender who escapes from the custody of the escort can be arrested without warrant for the purpose of being returned to lawful custody.

I commend this Bill to honourable members.

Clause 1 is formal.

Clause 2 provides for commencement on proclamation.

Clause 3 provides a definition of 'working day'.

Clause 4 amends the section of the Act that sets out the list of matters that a court, panel, body or person must have regard to in dealing with a child under the Act. The list is expanded to include the child's ethnic or racial background and the need to guard against damaging his or her sense of cultural identity. If the child is being dealt with under Part III, the interests of the child must be the paramount consideration.

Clause 5 amends the heading to Part III so as to reflect that proceedings may arise out of the need to protect, as well as care for, children.

Clause 6 amends the guardianship provision so that an application for guardianship may be made where a person residing with a child maltreats the child. The paragraph dealing with unfit guardians is struck out. Provision is made for a conference to be held between Community Welfare Department officers and the Children's Interest Bureau before guardianship proceedings are taken out. Provision is also made for early notification of parents where an application for guardianship is being contemplated. (It should be noted that neither of these provisions is a mandatory requirement and that the court will not therefore be required to satisfy itself as to compliance with either of them.) A person residing with a child is a party to the proceedings if alleged to have maltreated the child.

Clause 7 makes a consequential amendment to the provision relating to service and also provides that, except in cases that the court thinks urgent, the hearing of a guardianship application must not proceed unless at least five days notice has been given to the parties who have been served with the application.

Clause 8 sets a wider range of orders that the court can make on finding that a child is in need of care or protection. Guardianship may be given to the Minister or any other person. The child may be placed under the Director-General's control, but only to the extent specified in the order. Orders as to residence may be made. The person residing with the child can be directed as to future contact with the child. The guardians of the child may be required to take certain specified steps in respect of the child. If guardianship is placed with the Minister or other person, he or she can be directed as to how guardianship powers should be exercised. Access orders may be made. Guardianship may not be taken away from parents in the case of maltreatment by a person residing with the child unless the parents knew, or ought to have known, of the maltreatment. The penalty for breach of an order is changed from a fine of $500 to imprisonment for three months.

Clause 9 is a consequential amendment.

Clause 10 gives the court power to adjourn the hearing of an application for five weeks, but after the first such adjournment, must obtain the Senior Judge's consent to any further adjournment. The range of interim orders that can be made on an adjournment is widened to include the matters of residence, the steps to be taken by guardians, contact with the child by a person residing with the child, access and exercise by the Minister of guardianship powers.

Clause 11 provides that proceedings under Part III are to be dealt with expeditiously. The child must have legal representation unless he or she wishes otherwise or is not capable of instructing counsel, and must be given an opportunity to appear before the court and make submissions, unless not capable of so doing. It is no longer mandatory under section 14 for the court to obtain a report from an assessment panel, and the court is given a general power to call for such reports as it thinks fit before it makes any determination or order. The court is given the power to convene conferences between the parties for the purpose of expediting the proceedings. The member of the court hearing the case will not be involved in such a conference.

Clauses 12, 13, 14, 15 and 16 effect consequential amendments. Section 21 is repealed because it will no longer be mandatory for the court to obtain a report from an assessment panel.

Clause 17 broadens the ambit of the review provision to make it clear that the Minister also has power to review the circumstances of a child subject to orders other than guardianship. Children under guardianship must be reviewed annually.

Clause 18 excludes public transport offences (except for serious offences which will be prescribed) from the application of the provisions of the Act that require offences to be 'screened' by screening panels for the purpose of determining whether the matter should be dealt with by a children's aid panel or by the court, thus enabling the issue of expiation notices for such offences when committed by children of or over 15 years of age.

Clause 19 inserts a new Part in the Act that provides for the interstate transfer of young offenders held in detention centres, out on conditional release, on probation or performing community service. The provisions of this Part are to some extent uniform with corresponding Acts of other States.

New section 65a provides the necessary definitions. A young offender is a person who committed an offence while under 18 and who is subject to a correctional order. A correctional order is an order for detention, community service, probation, conditional release or parole made under a law for dealing with children who commit offences.

New section 65b gives the Minister power to arrange for the transfer of a young offender out of this State if the Minister is satisfied that the transfer is in the best interests of the young offender, that he or she will not be prejudiced by the transfer and that he or she consents to the transfer. A transfer may be effected without consent only if the Minister is satisfied that special reasons exist justifying such action. The young offender must be given an opportunity to obtain independent legal advice. The Children's Court must notify a transfer before it will be effective. A transfer operates to discharge the correctional order in this State.

New section 65c deals with transfers to this State. The young offender must be over 10 years of age, his or her offence interstate must have a similar counterpart under South Australian law, and the transfer must not prejudice

the young offender. Such a transfer means that the young offender will be dealt with in this State as if the correctional order had been made here.

New section 65d provides for the modification of correctional orders to ensure effective operation in the State to which the young offender is to be transferred.

New section 65e provides that an escort has the lawful custody of a young offender while a transfer is being effected, and that a young offender who escapes from an escort may be arrested without warrant.

Mr OSWALD secured the adjournment of the debate.

COMMUNITY WELFARE ACT AMENDMENT BILL

Second reading.

The Hon. G. J. CRAFTER (Minister of Education): I move:

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

This Bill proposes amendments to the Community Welfare Act, 1972 arising from the Report of the Government Task Force on Child Sexual Abuse and the recent 'In Need of Care' Review. The Bill forms part of a package of child protection measures being introduced by the Government. The other Bills in the package are the Evidence Act Amendment Bill, 1987 and the Children's Protection and Young Offenders Act Amendment Bill, 1987.

Section 26 of the Act establishes the Children's Interest Bureau and sets out its functions. As a result of the proposed amendments to the Children's Protection and Young Offenders Act, 1979, officers of the Children's Interest Bureau will be involved in providing an objective perspective at pre application conferences and at reviews of guardianship orders. The Bill expands the functions of the Bureau to include this new role.

The amendment to section 27 of the Act is also consequential upon the Children's Protection and Young Offenders Act Amendment Bill. It ensures that the grounds for determining whether or not a child is in 'need of care or protection' are consistent under both Acts.

The third substantive amendment arises from the Report of the Task Force on Child Sexual Abuse and deals with compulsory notifications of child abuse.

Section 91 of the Act requires specified classes of persons to notify an officer of the Department of Community Welfare of a suspected breach of section 92, i.e. suspected neglect or maltreatment of a child by a care-giver.

The Task Force recommended that the Community Welfare Act, 1972 be amended so that a person obliged to notify cases of child abuse would only need to suspect on reasonable grounds that abuse has occurred regardless of who has committed the abuse. The amendment to section 91 (1) provides accordingly.

In addition, the Bill widens the classes of persons required to notify of cases of suspected abuse. By virtue of the amendment, probation officers, voluntary workers in an agency providing health, welfare, educational child care or residential services to children, and any employee of an agency providing child care, education or residential services to children would also be obliged to notify suspected cases of child abuse.

I commend this Bill to honourable members.

Clause 1 is formal.

Clause 2 provides for commencement on proclamation with power to suspend provisions.

Clause 3 adds a further item to the list of the Children's Interest Bureau's functions. It will be a function of the Bureau to provide the Minister with independent and objective advice on the rights and interests of children who are, have been or will be the subject of 'in need of care' proceedings under the Community Welfare Act or the Children's Protection and Young Offenders Act.

Clause 4 amends a heading so that it encompasses the protection as well as the care of children.

Clause 5 amends the grounds on which an application for guardianship may be made, by providing that maltreatment on the part of a person who resides with a child can give rise to guardianship proceedings. This amendment brings the section into line with the corresponding provision in the Children's Protection and Young Offenders Act.

Clauses 6 and 7 are consequential amendments.

Clause 8 is a consequential amendment to a heading.

Clause 9 widens the ambit of the section of the Act that deals with the reporting of cases of the maltreatment of children. Any case of maltreatment or neglect is to be reported, whether or not it constitutes an offence. The list of persons who are obliged to report cases of maltreatment or neglect is expanded to include probation officers and employees and voluntary workers in child care agencies, children's homes and health, welfare and educational agencies.

Mr OSWALD secured the adjournment of the debate.

OPTICIANS ACT AMENDMENT BILL

Second reading.

The Hon. G.F. KENEALLY (Minister of Transport): I move.

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

This Bill is the result of recommendations of the Select Committee in the other place which unanimously agreed that a new Bill implementing their recommendations should be introduced.

It is now widely recognised that the current provisions of the Opticians Act, which was first enacted in 1920, do not reflect contemporary arrangements in the optical industry and the Act is in need of major revision.

During the decades since the passing of the original Act, significant advances have occurred in the application of technology to the industry as well as the education and training of optometrists and other persons involved in the prescribing and dispensing of optical appliances.

Compared with their predecessors, today's practitioners within the industry possess higher education and skill levels. Also the structure of the industry has undergone marked change. Whilst the traditional solo practitioner is still present, the optometrical industry of today features large corporate bodies controlling significant shares of the market and utilising sophisticated retailing techniques.

For at least a decade, Governments and successive Ministers of Health have been approached by various representative groups, as well as the Board of Optical Registration, seeking changes to the Opticians Act. The areas where amendment has been sought to reflect current optometrical practice include an increase in penalties, use of a restricted group of drugs by optometrists, prohibition on the sale of ready made spectacles by unregistered persons and reviewing the necessity for optical dispensers to be supervised in the dispensing of spectacles on prescription supplied by ophthalmologists or optometrists.

More than 80 per cent of South Australians over the age of 45 require spectacles to assist the reading capacity of their eyes and approximately 5 per cent of South Australians regrettably are affected by a range of serious eye diseases including glaucoma and diabetic-related retinopathy. Eye health care services in South Australia were found by the Select Committee to be of a standard which can be favourably compared with standards of service provided in other States of Australia and overseas countries.

It is therefore accepted that any adjustments to the current arrangements must be aimed at supporting positive developments which are of benefit to both the optical health care industry and that part of the South Australian community served by the industry.

Having regard to all of the information provided to the Committee and an assessment of all of the issues, it is acknowledged that, whilst some deregulation of the industry is required, such deregulation should be applied prudently to mitigate against a lessening of standards or causing detrimental effects upon the economics of the industry without concomitant benefits to consumers. Specifically, changes to the legislation should be aimed at achieving the following beneficial outcomes:

- enhancement of eye health care service standards;
- improved quality assurance in spectacle dispensing;
- an increase in competitive opportunities for optical appliance retailers and expanded consumer choice;
- improvements in the technical knowledge and training of optical dispensers;
- clarification of the objectives of the Opticians Act regarding the use of drugs and optical dispensing and improving surveillance of the industry;
- enhancing relationships between ophthalmologists and optometrists;
- improving the opportunities for the early detection and treatment of eye disease and reducing the risks of infections associated with the use of contact lenses.

The Select Committee concluded that these aims can be achieved by the introduction of new legislation. The Bill before the House contains the following new provisions:

- The Act is retitled the 'Optometrists Act'.
- The Board of Optical Registration is restructured to provide for the appointment of a legal practitioner and one other person who is neither a registered optometrist nor a legal practitioner who has been selected by the Minister to represent the interests of persons receiving optical care.
- The definition of optometry is revised to permit the prescription of appropriate persons to measure the powers of vision for health screening purposes.
- A certified optometrist shall not treat a disorder of the eye by surgery or a laser or by drugs.
- Any impediment previously contained in the Opticians Act is removed to allow optometrists to be classified by the Controlled Substances Act as 'Prescribed Persons'. This will enable them to use a restricted range of generic topical ocular pharmaceuticals recommended by the Controlled Substances Advisory Council. The authorised ocular drugs should include topical anaesthetics, myotics and mydriatics but exclude any drugs which have a primarily cycloplegic effect.
- The prescribing and fitting of contact lenses will continue to be only by an ophthalmologist or an optometrist. All other persons, including optical dispensers or optical mechanics, will continue to be prevented from involvement in these activities.
- Provision is made for optical dispensers to be registered under the Act so that they can operate without the supervision of an optometrist.
- To be eligible for registration as optical dispensers applicants must satisfy certain conditions for registration, including a course prescribed by regulation involving approximately 120 hours instruction.
- That persons to be eligible for registration as optical dispensers should satisfy certain conditions for registration.
- A six member Optical Dispensers Registration Committee is established for the purpose of assessing and approving applications for registration.
- Optical dispensers will not be permitted to fit contact lenses; fitting of contact lenses to be only within the role of the professional prescriber.

The proposed Optical Dispensers Registration Committee is empowered to enquire into the misconduct of optical dispensers and to take disciplinary action including reprimand, caution, removal of the dispenser's name from the Register of Licensed Optical Dispensers or suspension of the dispenser's licence for a specified period.

- Registered optical dispensers are restrained in their advertising to the same ethical levels which apply to optometrists.
- The sale of ready made single vision spectacles having a power range of plus 1 dioptre to plus 3 dioptres is permitted subject to a warning notice being attached to every pair and being made available to the purchaser at the time of sale. Failure to supply such a warning notice will be subject to a maximum penalty of $5 000.

In South Australia there is a range of terminology which has been adopted to describe persons who are employed in the optical industry, including opthalmologists, optometrists, optical dispensers and optical mechanics. At times, the roles of each of these professions can marginally overlap.

The ophthalmologist is a member of the medical profession. This person is a qualified medical practitioner who has specialised in the diseases, disorders and surgery of the ocular region. Direct access by a patient to an ophthalmologist is possible but in most cases the patient is referred by a general practitioner or optometrist.

Optometrists obtain their Bachelor of Science degree following a full-time university course of four years. They have special expertise regarding lenses and their applications. When an examination reveals that spectacles or contact lenses are needed, optometrists will usually supply them as part of a total service for which they accept responsibility. While not being medical practitioners, optometrists' training enable them to recognise eye conditions requiring referral to an ophthalmologist.

An optical dispenser's role includes the interpreting of optical prescriptions and dealing with patients. The dispenser must understand the purpose of the elements of the

prescriptions and the various forms that the lenses ordered may take. Dispensers possess knowledge of the types and uses of the various single vision and multi-focal lenses.

An optical dispenser is not qualified by law to test sight or prescribe treatment for difficulties of vision.

The principal work of the optical mechanic is to make lenses and assemble spectacles to specifications given to him by an ophthalmologist or optometrist and an optical dispenser. An optical mechanic also is not qualified by law to test sight or prescribe treatment for defects of vision.

It is appropriate to draw particular attention to the following topics contained within the provisions of the Bill.

It is considered that the Opticians Act should be retitled the 'Optometrists Act' to more appropriately reflect the role of optometrists to modern South Australia.

The term 'optician' means 'maker of optical instruments, especially spectacles', whereas the term 'optometrist' describes a person who is a 'sight tester'. Since the passing of the original Act, the training of optometrists has expanded considerably to include the detection and diagnosis of disease and the term which means 'sight tester' more adequately reflects the higher order or more professional component of the role of the optometrist today. 'The maker of optical instruments' more appropriately reflects the skills and current role of optical mechanics.

In addition to the retitling of the Act to reflect modern optometrical practice, it is considered that the Board of Optical Registration should be restructured. The current Act provides for the establishment of a Board of Optical Registration which consists of five persons appointed by the Governor. The Act requires that the five persons appointed are nominated as follows:

- Two certified opticians and one legally qualified medical practitioner who are all nominated by the Minister.
- One certified optician and one legally qualified medical practitioner who shall be nominated by certified opticians.

Examination of the composition of this Board of Optical Registration indicated that its operations would be enhanced if its membership was revised to provide for the appointment of a person who is a legal practitioner and one other person who is neither a registered optometrist nor a legal practitioner who has been selected by the Minister to represent the interests of consumers of optical care. This additional representation on the professional Board mirrors similar arrangements which now apply in the Dentists Act and the Medical Practitioners Act.

The Select Committee report considers that optometrists should be permitted to use topical anaesthetics and a limited range of diagnostic drugs which have the capacity to dilate or contract the pupil of the eye. Whilst the Committee supports marginal relaxation of the control over the use of ocular drugs, it was also of the view that the use of any drugs for therapeutic purposes continue to be restricted to the Medical profession.

Optometrists practising in South Australia obtain a Bachelor of Science degree in Optometry. It is a four-year university level course available in Brisbane, Sydney and Melbourne. In addition to covering optics, the course provides some coverage of diseases and the use of ocular drugs.

Optometrists accept a defined responsibility in terms of recognition and detection of eye disease. The most important conditions in terms of loss of vision are in the back of the eye. They are the most difficult to treat and the earlier these conditions are detected, the more hopeful is the treatment. Whilst vision loss can occur as a result of diabetes and glaucoma once that vision is lost is usually difficult if not impossible to retrieve. However, before vision is lost significant damage has occurred to the retina. This damage can be detected by the screening of the eye and if it is detected vision loss can be prevented.

The only way to see the back of the eye is through the pupil. When a light is shone into the pupil, it contracts and makes it more difficult to examine the interior of the eye. Optometrist are experienced in looking through small pupils. However, there are major advantages in making the pupil larger with the use of pharmaceuticals in order to be able to see more, particularly at the periphery of the retina.

Well-trained optometrists can recognise abnormalities and can question if certain criteria are not met during their examinations of the eye.

Expert evidence presented to the Committee has indicated that the risks involved with the use of topical anaesthetics, myotics and mydriatics are minimal and the benefits to the patient by enabling early detection of disease are considerable. Although some alarming complications have occurred following the use of mydriatics (that is substances which dilate the pupil) evidence was that such sequelae were rare.

The Committee was satisfied that, on balance, it is in the public interest for optometrists to be permitted to use a restricted range of diagnostic drugs, in particular, topical anaesthetics, myotics and mydriatics.

However, the Committee strongly held the view that optometrists should not be authorised to use any ocular drugs which have a primarily cycloplegic effect (that is to relax the muscles controlling the lens). The Select Committee also supports the continued prohibition on optometrists from supplying or prescribing drugs for treatment.

Provision has been made within the Bill to remove any impediment from optometrists being allowed to use drugs recommended by the Controlled Substances Advisory Council which is established under the provisions of the Controlled Substances Act.

The Select Committee has concluded that the prohibition of the sale of ready made reading spectacles is not warranted at present. Ready made spectacles are mass produced single vision reading spectacles. Since late December 1986, single vision ready made reading spectacles have become readily available for sale to the public from pharmacies and have been widely advertised on local television stations. These spectacles are available on a self-selection basis and are produced in a range of lens strengths.

Expert advice has been received that ready made single vision reading spectacles do not cause further damage to the wearer's eyesight. Further, that no special skills are required in their dispensing. particularly where the purchaser already possesses a pair of prescription spectacles and has some idea of the lens magnification power required. Therefore, to prohibit their sale is difficult to justify.

Whilst accepting this position it is acknowledged that the major problem with the availability of the ready made spectacles arises when a person chooses to purchase a pair as their first reading spectacles and they have not been screened by an ophthalmologist or an optometrist, particularly as some of the major eye diseases are symptomless and early detection provides improved opportunities for beneficial treatment.

Therefore, the Bill provides for the sale of ready made single vision spectacles provided that an appropriate warning notice is attached to every pair at the time of sale and that the warning notice emphasises:

- Deterioration of eyesight can be caused by ageing and eye disease which can be symptomless;
- It is advisable to have eyes regularly examined by an ophthalmologist or optometrist.

A related matter which has been considered was whether the volume of sales of ready made spectacles has the potential to affect the viability of optometrical and dispensing practice in this State. On the information provided, the current sales volume is insufficient to cause concern. Further, a high percentage of these spectacles are being purchased as a spare pair and not as an alternative to prescription spectacles. Nevertheless, if the sales volume of these appliances continues to expand to a point where it is seriously detrimental to the viability of professional practices, then restrictions on the sale of these appliances may need to be considered to preserve quality assurance.

The Select Committee supports the view that provision should be made under the new Act for optical dispensers to be registered.

At present, the Opticians Act precludes a company or business from dispensing prescriptions for glasses unless every shop or place of business is carried on under the actual supervision and management of a certified optician.

For many years, the strict letter of the law has not been observed and there appears to have been no resultant harm to consumers. Dispensing organisations have approached successive governments seeking to have the present legislation changed to enable optical dispensers to dispense ophthalmologists' and optometrists' prescriptions without the supervision requirement.

It has been submitted that the consumer would benefit from deregulation of dispensing through competition. Countervailing arguments claim that the status quo should be maintained in the interests of quality of eye and vision care.

There is benefit in having a skilled person dispensing prescriptions for spectacles. It assists in assuring a good quality product and ensuring the optical appliance dispensed is in accord with the prescription and is manufactured to suit the patient's facial features and lifestyle. Registration of persons involved in dispensing could provide the client with a legitimate redress in those cases where a problem arose through the dispensing.

On balance, it is therefore proposed that it would be in the interests of South Australia for provision to be made for optical dispensers to be registered so that they can work without the supervision of an optometrist and that provision for this be made by amendment to the Opticians Act.

Concurrent with such registration of this category of optical health care worker under the Opticians Act, it is intended that they be also constrained in advertising to the same ethical standards imposed by that legislation upon optometrists.

Licensing would work towards ensuring good quality workmanship and service. To achieve these ends, it is necessary to settle upon a standard of qualifications to be possessed by persons involved in optical dispensing who are not ophthalmologists or optometrists.

The New South Wales Department of Technical and Further Education and the Guild of Dispensing Opticians both offer two-year part-time courses of training in optical dispensing.

The Guild of Dispensing Opticians (Australia) has indicated that it wishes to withdraw from the provision of training in optical dispensing and has been in consultation with TAFE Colleges in New South Wales, Victoria, South Australia and Western Australia with a view to transferring the training to those Colleges. As a result, the New South Wales Department of Technical and Further Education has agreed to provide the course on both a day release and correspondence basis. The correspondence course will require attendance at a TAFE College for a set period of practical instruction. It is anticipated that the prescribed course will be of approximately 120 hours duration.

The South Australian Panorama College of TAFE and its Western Australian counterpart have both indicated their preparedness to provide support for students who enter the New South Wales Department of Technical and Further Education correspondence course. This support will include provision of practical training and examination supervision.

It is anticipated that all the persons who are currently employed as optical dispensers in South Australia under the supervision of optometrists may not have undertaken a course of study in optical dispensing but have obtained thorough on-the-job training over a number of years. The Select Committee therefore considered that it would be appropriate to provide an opportunity for these people to be considered for registration provided they could satisfy the Optical Dispensers Registration Committee that they were resident in South Australia, were of good standing and had gained their livelihood from optical dispensing in South Australia for a minimum of two years in the preceding three years prior to application. Such applications will only be permitted for a period of one year from the date of bringing into force this legislation which enables the registration of optical dispensers.

Specific provision is also made for persons employed and training as optical dispensers under supervision to receive limited registration as students in training.

Most of the complications which occur with patients who are prescribed contact lenses arise from inadequate after care and inadequate instructions to the patient. This difficulty is well accepted and is reflected in the Medical Benefits Schedule. Item 186 of the Schedule includes an allowance for the prescriber to fit a lens and provides for after care visits.

The optical dispenser's training is focused upon spectacles and not contact lenses and it would be against the public interest to allow optical dispensers to be involved with the fitting of such lenses.

The Government believes that this accommodates the views raised by the Select Committee and feels it could accept the recommendations from that report.

Clauses 1 and 2 are formal.

Clause 3 substitutes a new long title to reflect the new material included in the principal Act by the Bill.

Clause 4 changes the short title of the Act.

Clause 5 repeals the section setting out the arrangement of the principal Act.

Clause 6 makes amendments to the definition section of the principal Act.

Clause 7 replaces the heading to Part II of the principal Act.

Clause 8 replaces Division I of the principal Act with two new Divisions.

Clause 9 amends section 16 of the principal Act. Paragraph *(a)* includes optical dispensers in the board's power to suspend practitioners. The other changes are consequential.

Clause 10 makes a similar change to section 16a and increases the penalty in line with other Acts regulating professional activities.

Clause 11 makes a consequential change.

Clause 12 inserts new section 17a. The section provides that action taken by the board against an optical dispenser must be taken by the Optical Dispensers Registration Committee on behalf of the board.

Clause 13 substitutes a new heading for Part III of the principal Act.

Clause 14 amends section 20 of the principal Act. Paragraph *(a)* of section 20 is struck out. This provision is transitional and is now redundant. Paragraphs *(c)*, *(d)* and *(e)* remove the concept of 'good character' and paragraph *(f)* substitutes the concept of 'fit and proper person'. This is the terminology used in recent professional registration Acts.

Clause 15 replaces sections 22 to 25 with new sections. New section 21 provides for registration of optical dispensers. Subsection (2) requires the Optical Dispensers Registration Committee to consider and determine applications on behalf of the board. Section 22 provides for limited registration.

Clause 16 replaces sections 26 to 31 with new sections. New section 26 restricts the lawful practice of optometry. Section 27 requires every place at which optometry is practised to be under the management of an optometrist or where the only branch of optometry that is carried on at that place is dispensing of prescriptions, by an optical dispenser or an optometrist.

Clause 17 substitutes new Part IV of the principal Act. This part deals with registers kept under the principal Act.

Clause 18 makes a consequential change and increases the penalty under section 35.

Clause 19 removes section 36 and inserts a new section recognizing the right to sell ready made glasses.

Clause 20 repeals section 37 of the principal Act.

Clause 21 makes a consequential change.

Clause 22 replaces subsection (5) of section 45.

Clause 23 increases the maximum penalty that can be prescribed by regulation.

Clause 24 repeals the first schedule.

Clause 25 repeals the second schedule. After these amendments an optometrist's qualifications will be recognised by registration under the principal Act and not by certification. This schedule is therefore redundant.

Clause 26 makes consequential amendments to, and inserts a new clause in the fourth schedule.

Mr OSWALD secured the adjournment of the debate.

EVIDENCE ACT AMENDMENT BILL (1988)

Second reading.

The Hon. G.J. CRAFTER (Minister of Education): I move:

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

This Bill proposes a number of amendments to the Evidence Act 1929 dealing with the competency of a young child to give evidence and procedural matters associated with a child giving evidence.

The Bill forms part of a package of child protection measures being introduced by the Government. The other Bills in the package are the Community Welfare Act Amendment Bill 1987 and the Children's Protection and Young Offenders Act Amendment Bill, 1987. The Bills were prepared as a result of the Report of the Government's Task Force on Child Sexual Abuse and the recent 'In Need of Care Review'. The Justices Act Amendment Act 1987 passed earlier in this Session also dealt with matters arising from the Task Force Report.

The three Bills will be introduced and laid on the table until the February sittings of Parliament. It is expected that considerable public debate will occur as a result of the introduction of the Bills. Therefore, the Government has tried to ensure that the community has time to comment on the proposals and that members have an adequate opportunity to consider these very important amendments.

Before dealing with the provisions of this particular Bill, I propose to deal with some general matters arising from the Task Force Report, for the information of Honourable Members.

In October, 1984, the Government established the Task Force to identify problems associated with the existing law on child sexual abuse and to examine aspects of service delivery to sexually abused children and their families. The Task Force was asked to make recommendations on the development of integrated and co-ordinated policies and services across the sectors—health, welfare, education and law.

The Task Force reported to the Government in November, 1986. The Report contained over one hundred recommendations dealing with such matters as the co-ordination of services, the investigation of cases, health and education programs and substantive and procedural aspects of the law affecting child sexual abuse.

In preparing its Report, the Task Force undertook a program of wide community consultation in order that the views of victims, their families, service providers and agencies were adequately taken into account. Public meetings were held in the metropolitan and country areas and in addition special purpose meetings were held with parent action groups, victim support groups and members of the judiciary and the legal profession.

All of the recommendations in the Task Force Report have been, or are in the process of being, assessed with a view to implementation.

In its Report the Task Force examined the handling of child sexual abuse cases in both the child protection system and the criminal justice system. The recommendations made by the Task Force in this context were aimed at:

- modifying legal procedures to be more sensitive to child victims;
- affording the child greater protection from harassment and abuse;
- improving prosecution and conviction rates without unduly prejudicing defendants;
- facilitating the rehabilitation of the child, the family and where appropriate the offender.

In its Report, the Task Force recommended that an interlocutory protection jurisdiction be established in the Children's Court. The Bills currently before Parliament do not include amendments arising from this recommendation.

The aim of the interlocutory protection jurisdiction, as proposed by the Task Force, is to provide the Children's Court with a wider range of options to deal with emergency cases of abuse. The interlocutory protection jurisdiction would allow the Court to make short term orders aimed at securing the immediate protection of the child. Under the Task Force proposal the Court could, in appropriate cases, order the removal of the alleged offender from the home in which the child is residing. At present, the Children's Protection and Young Affenders Act only authorises the removal of the child.

The reason for not providing for the new jurisdiction in the Children's Court at this time is so that there can be

greater community debate over aspects of the proposed jurisdiction.

The first matter that must be stressed is that the non-inclusion of the provisions does not, of itself, put children at a risk. Under the present laws there are already procedures for dealing with emergency cases for the protection of a child. These methods were noted by the Task Force.

The power to remove a child who is suspected of being in need of care or in immediate danger of suffering physical or mental injury currently exists under section 19 of the Children's Protection and Young Offenders Act. A child, at risk, can be removed and placed in the custody of the Director-General and then brought before the court for the hearing of an application for in need of care. The present practice is to seek an interim guardianship order pursuant to section 16 of the Act. The Children's Protection and Young Offenders Act Amendment Bill, 1987 provides for a wider range of orders at the interim stage of in need of care proceedings.

In addition, where further abuse is feared, an order can be sought from a court of summary jurisdiction for an order under section 99 of the Justices Act. These orders can direct an alleged offender to stay away from the complainant. The order can also require the alleged offender to stay away from any place, including his/her own residence.

In cases of physical or sexual abuse where the identity of the offender is known, charges could be laid through the criminal justice system. If the alleged offender is released on bail, the court would have power to impose a condition of bail that the alleged offender not contact or visit the alleged victim.

Therefore, the proposed jurisdiction is not the only means of protecting a child.

In its Report, the Task Force highlighted the need for prompt investigation and for the Court to provide immediate and effective protection.

The Government shares the view that where possible these matters should be the subject of speedy investigation and resolution. The Government has established a joint Department for Community Welfare/Police Department Working Party to examine the Task Force recommendations regarding the investigation of child abuse matters. In addition, liaison between the Department for Community Welfare, and the Crown Solicitor's Office and the Police Department is being strengthened in order that investigations and resultant cases are conducted on a strong footing.

Therefore, the Government has already set in motion steps which should facilitate the handling of child abuse cases, including urgent cases.

One of the most controversial aspects of the Task Force Report is the recommendation that the Children's Court be empowered to remove an alleged offender from his/her home during the interlocutory stage of proceedings. This order would have a similar effect to an order under section 99 of the Justices Act. However, it would allow the Children's Court to make the order. The Task Force argues that this ensures that the matter is dealt with in one forum and that experts are making the decisions with the welfare of the child as the paramount consideration.

This met with resistance from some sections of the legal community and groups representing persons accused of child abuse. On the other hand, the suggestion was applauded by groups representing child victims and their families.

One of the major criticisms of the current system is that it is usually the child who is removed from the home when an allegation of abuse is made. This is seen as punishing the child instead of the offender. However, it is one means of ensuring that the child is removed from the risk of further abuse. Whereas, an order for the removal of the alleged offender may not necessarily protect the child.

Difficulties associated with removing the alleged offender are as follows:

(i) an order requiring the alleged offender to stay away from the child's home may not be observed, especially if the child's parent favours the alleged offender at the expense of the child's interests. Where a breach occurs the offender could be charged for breach of the order, but in the meantime, the child may have suffered further abuse or trauma. If the child is removed from the place of abuse and put in safe keeping, it is less likely that the alleged offender would be able to contact the child.

(ii) the mistaken identity of the alleged offender. When investigating a case of child abuse, there is often no doubt that a child has been abused. However it is sometimes difficult to prove the identity of the abuser. In the case of young children, a general term such as 'Uncle' may be used to identify the offender. However, after further investigation, it is determined that the child was referring to another person in a position of trust. If in fact, the wrong person is removed, the child will be left at risk, and the person accused of the abuse is likely to become bitter and react against the system.

One of the Government's main concerns relating to the interlocutory protection jurisdiction is that, in practice, it may not improve the means of dealing with emergency cases. Given that a range of orders is proposed at the interlocutory stage, it is likely that lengthy, bitterly fought and emotional contests could arise at the interlocutory stage of proceedings. A magistrate would need to satisfy himself of the evidence forming the basis of the application and give the alleged offender a reasonable opportunity to rebut the evidence. The intent of the Task Force recommendations may be defeated if a high degree of argument and evidence is required at the interlocutory protection proceedings.

Also, it appears that many people who indicated their support for the interlocutory protection jurisdiction did so almost wholly on the basis of the Task Force's proposal to include a power to remove the alleged offender. However, these issues are not necessarily related in that the contemplated jurisdiction can exist without such a power and vice versa.

Some of the other matters raised in the Task Force Report such as pre-trial diversion are not being dealt with at this time. Rather, further research will be conducted into treatment programmes and other relevant factors before an assessment is made in a couple of years as to whether or not pre-trial diversion should be introduced. Likewise, the Government would like to see more community debate on the introduction of the interlocutory protection jurisdiction.

Therefore, the Government has decided not to include any provision for the interlocutory protection jurisdiction at this stage. However it welcomes further community comment on the model proposed by the Task Force. The Government undertakes to consider all submissions before the Bills are debated in Parliament early next year.

I now turn my attention to the contents of the Bill before Parliament. The amendments deal with a child giving evidence and associated procedural matters.

Currently, section 12 of the Evidence Act 1929 provides that a child under the age of 10 years of age shall not be required to submit to an oath and allows the child's evi-

dence to be given without formality. Before the unsworn evidence of a child is admitted, the judge must explain to the child the requirement to be truthful. A recent decision of the Supreme Court ruled that section 12 prohibits a child under 10 years from giving sworn evidence even where the judge may otherwise consider the child to be competent.

Section 13 (1) provides that the unsworn evidence of the child witness carries such weight and credibility as ought to be attached to evidence given without the sanction of an oath. Section 13 (2) provides that an accused shall not be convicted of an offence on the basis of the unsworn evidence of a child where the accused denies the offence on oath and evidence of the child is not corroborated in some material particular by evidence implicating the accused.

The operation of sections 12 and 13 of the Evidence Act 1929 makes it difficult for the evidence of a child under ten years to result in a successful prosecution against the accused.

This matter has been the subject of considerable concern and has been criticised by groups representing victims of child abuse. The Task Force addressed this matter and examined a number of options to amend the law. The Task Force, in its deliberations was aware of the need to assist the child victim but at the same time to protect the rights of an accused person. The recommendations made by the Task Force were aimed at balancing the interests of victims and accused persons.

The Task Force recommended that the age at which a child should be able to give sworn evidence should be lowered. The majority thought that the age of 7 years was the age which should be adopted. The Task Force also recommended that children under that age should be able to give sworn evidence where the judge considers them to be competent. It also recommended that the means of swearing in a child should be simplified.

Clause 5 of the Bill sets out the new provisions dealing with the reception of evidence of a young child. The Bill lowers the age for a child to give evidence on oath to 7 years. It also allows the evidence of young children i.e. children aged 12 years or under to be assimilated to sworn evidence.

Proposed section 12 (2) allows for the reception of evidence of a young child where the child appears to the judge to have reached a level of cognitive development enabling him/her:

- to understand and respond rationally to questions;

and

- to give an intelligible account of his or her experiences;

provided that the child promises to tell the truth and appears to the judge to understand the obligation entailed by that promise.

Where evidence is received under this subsection, it is to be treated in the same way as evidence given on oath, and therefore it will not need to be corroborated before a conviction can be made.

In cases where a child cannot satisfy the requirements in section 12 (2) the child could only give unsworn evidence; evidence which would continue to require corroboration as a matter of law.

Where evidence is received under this subsection, it is to be treated in the same way as evidence given on oath, and therefore it will not need to be corroborated before a conviction can be made.

In cases where a child cannot satisfy the requirements in section 12 (2) the child could only give unsworn evidence; evidence which would continue to require corroboration as a matter of law.

The effect of the new provision would be to allow more children to give evidence in court and for such evidence to be treated on an equal basis with the evidence of adults.

Clause 5 also provides for a support person to be present during the time that a young child is giving evidence. This provision is aimed at assisting a young child to deal with the traumatic experience of attending at a court to give evidence. The support person would be able to sit in close proximity to the child during the giving of the child's evidence provided he/she did not interfere with the proceedings in any way.

Clause 6 of the Bill provides for the insertion of a new provision into the Evidence Act, 1929 which would permit certain out of court statements made by a young child to be introduced as evidence at the trial of an accused. This exception to the 'hearsay rule' would allow a witness to introduce the contents of a complaint of a child victim into evidence provided certain requirements of reliability were fulfilled. The exception would only operate where the child was available as a witness so that, if necessary, he or she could be cross examined on the contents of the evidence.

The Bill also inserts a new section into the Evidence Act 1929 which would assist in proving the age of a child. This provision did not arise from a recommendation of the Task Force but rather from the practical problems faced by prosecutors. Prosecutions in child abuse matters can be set by problems of proof of age of the child victim, particularly when the alleged offender is one or both parents. The amendment provides an evidential aid for proof of age based on the tender of a certified birth certificate and ensures a more consistent approach to this exception to the hearsay rule.

The Bill further provides for the mandatory closure of courts where the child victim of a sexual offence is giving evidence. The only persons permitted to remain in the court would be those required for the purposes of the proceedings and a support person for the child.

The Bill also amends section 71a of the Evidence Act, 1929 to prohibit the publication by the media of information tending to identify the alleged victim of a sexual offence.

The legislation set out in this Bill is based on the recommendations of the Task Force. In examining the recommendations, it was noted that many of them could have a wider application and that they should not be limited to cases of child sexual abuse. Therefore, where appropriate, the amendments have been extended to deal with matters affecting children generally.

I commend this Bill to honourable members.

Clause 1 is formal.

Clause 2 provides for the commencement of the measure.

Clause 3 includes definitions of 'child' and 'young child' for the purposes of the principal Act; a young child is to be a child of or under the age of 12 years.

Clause 4 contains an amendment to section 9 of the principal Act that is consequential on the proposed repeal of section 13.

Clause 5 provides for the repeal of sections 12 and 13 of the principal Act and the substitution of a new section 12. New section 12 relates to the giving of evidence by a young child. A young child will not be required to submit to an oath unless the child is at least seven years old and understands the obligation of an oath. However, the evidence of a young child who does not understand the obligation of an oath may be treated in the same way as evidence on oath if the child has reached a certain level of cognitive development and promises to tell the truth. The evidence of a child who is too young to have his or her evidence

assimilated to evidence on oath will be evaluated in light of his or her level of development. A young child who is called to give evidence will be entitled to have a person present to provide emotional support.

Clause 6 provides for a new section 34ca of the principal Act. This section will allow hearsay evidence relating to the complaint of a young child who has allegedly been the victim of a sexual offence to be admitted (at the discretion of the court) in certain circumstances.

Clause 7 inserts a new section 65a of the principal Act and is intended to assist in proving the age of a person in the course of proceedings before a court.

Clause 8 amends section 69 of the principal Act so that a court will have to be cleared if a child who is the alleged victim of a sexual offence is to give evidence.

Clause 9 amends section 71a of the principal Act so that there is an automatic suppression of the identity of a child who is allegedly the victim of a sexual offence.

Mr S.J. BAKER secured the adjournment of the debate.

ROYAL COMMISSIONS ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 24 March. Page 3538.)

Mr LEWIS (Murray-Mallee): The Opposition has not very much difficulty in supporting this measure. Indeed, it has absolutely no difficulty whatever concerning the increasing of the penalties so that they are more in keeping with the income levels enjoyed by the community at large these days and with the serious matters addressed by the Bill. The amendments are necessary and indeed overdue.

However, Opposition members are cautious about the Government's proposition to have individual commissioners addressing the one subject of a royal commission and sitting separately from one another at the same time. Our problems with this proposition arise simply from the difficulties that will be faced more particularly by individuals or corporations wishing to appear before the commission, because they would be likely to incur greater expense than would otherwise be the case if one person was acting for another person or a group as the client and representing that person or group before the royal commissiosn.

In future, a person or a group may have to have a number of people representing that person or group before the various commissioners sitting on that topic but separately at the same time. It is not in the best interest of justice or the administration of inquiries to have various commissioners reviewing the same matter at the same time and, although it may shorten the time in this instance (that is, the instance of the Royal Commission into Aboriginal Deaths in Custody), the Bill nonetheless is not an explicit Bill addressing this one matter.

The Bill contains no sunset clause. It addresses the conduct of all future royal commissions and it may shorten the time of the current royal commission by enabling separate royal commissioners to be appointed to inquire into different deaths in custody at the same time as each other. However, it does not necessarily follow that there will be a reduction in cost to the Government. The only benefit will be that it may save time in this instance. The Bill could have easily contained a sunset clause. I am amazed that the Government chose to ignore that option and to leave the matter as it now stands in the form of a general amendment.

The Government of the day in appointing a royal commission, however, has control over the number of commissioners to be appointed in any instance, so the Government will have to wear the odium if it chooses to appoint a number of commissioners to inquire into one matter simultaneously, and no doubt the Government can expect that, if Opposition members see aspects of any inquiry being inappropriately dealt with in this way, we will raise our voice in this place accordingly.

The Bill delineates those aspects of an inquiry to be dealt with independently by individual commissioners and the parts that will be dealt with by the commission sitting as a whole. The Government of the day then retains the necessary measure of control over the conduct of any royal commission where more than one royal commissioner is appointed. With those few remarks, placing on the record our conditional support of this measure, Opposition members have pleasure isn seeing the rapid conduct of the Bill through this Chamber.

The Hon. G.J. CRAFTER (Minister of Education): I thank the Opposition for its support of this measure. Although perhaps a minor measure, in respect of the current royal commission it will provide for a much more expeditious and satisfactory method of dealing with the real difficulties that have been faced by Mr Justice Muirhead in the conduct of that royal commission. It is a unique royal commission which has already resulted in the necessity to change the legislation around the States. It is important that we are seen to be responsive in the States to facilitating a royal commission of this type.

As the member for Murray-Mallee has indicated, the other matters deal with penalties and bring the Royal Commissions Act into line with current practice. I have provided the honourable member with a very minor amendment brought to the attention of the Government just a short time ago by the Parliamentary Counsel. On rereading this legislation it may be argued that there is a lack of clarity with respect to those offences that can be dealt with summarily and those that would be dealt with otherwise. In order to clarify this situation the Parliamentary Counsel has recommended to the Government that it incorporate the amendment that I have provided to the Opposition. Copies will be circulated as soon as they can be made available to members.

I will further clarify this matter to members in the Committee stage of the Bill should they require any further explanation of the necessity for this minor amendment. However, with those words I thank the Opposition for their support of this measure to facilitate its the speedy passage through the other place and now through this place in order to assist, in particular, the current Royal Commission into Aboriginal Deaths in Custody.

Bill read a second time.

In Committee.

Clauses 1 and 2 passed.

Clause 3—'Constitution of commission.'

Mr LEWIS: This is the operative clause to which I addressed my remarks during the course of my second reading contribution on behalf of the Opposition. It provides that more than one commissioner can sit at any one time. Again, I make the point to the Government that, under the terms of this clause, since it is a general clause amending the Act overall, unless I am mistaken it is possible that individual persons, groups of persons or corporations may find themselves in a situation in the future wherein they will have to appoint more than one counsel to represent them before several commissioners inquiring into various aspects of one topic at one and the same time.

Is the Government aware of that fact and, if so, why did it choose to amend the Act in the general case and not simply with a sunset clause so that it was restricted in its application to this case to which everyone has been referring when speaking in favour of the measure both formally and informally? The Opposition wants to see the facilitation and expedition of the conduct of the Royal Commission into Aboriginal Deaths in Custody. It is not a good idea to have that hanging around for a long time. Indeed if the commission can come to a beneficial conclusion about the way in which we can avert the unfortunate loss of life of those people who have amongst their ancestors people who are said to be Aboriginal, then we should do it.

I have drawn the attention of the House, and I now draw the attention of the Committee, to the problem which it may pose in other instances. I think it unreasonable for us to ignore the implications of the circumstances to which I have referred where the Government may inadvertently end up making it damn near impossible for a citizen or group of citizens to be represented before several commissioners, knowing that it was necessary to do so.

The Hon. G.J. CRAFTER: I thank the honourable member for his comments now and in the second reading debate when he also made that observation. First, it is important that there be some breadth in an Act which provides for the establishment of royal commissions. Because of their very nature, they need to be all-embracing and have the powers to do what it is that Parliament wants royal commissions to do in terms of their function in our community. I would hazard that it is possible under these provisions for the situation to which the honourable member refers to arise, and that is it may be a possibility that the same party may have to brief counsel before a series of royal commissioners under the one royal commission. However, I preface those remarks by saying it is hard to envisage a situation where that would occur, given the checks and balances within the provisions now contained within the Royal Commissions Act and its administration.

Whilst these provisions are, as I have suggested, of a very broad and general nature, there is the application of administrative commonsense by the royal commissioner or royal commissioners, and obviously they would hear counsel on behalf of parties that are affected by the royal commission on precisely the issue to which the honourable member refers. It is an administrative matter that convenience is provided and not involvement in unnecessary expense, duplication of effort and the like. It is precisely the reason why we are dealing with these amendments—to facilitate and assist those parties affected by the royal commission, not to hinder them or harm the process of inquiry, and by those means seek justice from that inquiry.

So, I can only say that it is in the end a matter of commonsense, a sense of propriety and justice of administrative structures that are developed, and within the framework of the royal commission it is possible to hear counsel on all of those issues, to take them into account and ensure that the situation to which the honourable member refers does not arise.

Mr LEWIS: I take it that the Minister is giving me and the Committee the assurance which I have sought—that the Government does not envisage ever using this as a device to make it impossible for a citizen or group of citizens to become, as it were, effectively disfranchised by splitting the commission into several different forums at once and forcing them into the situation where they would not know which walnut shell to look under, as it were, and having to outlay more funds than they have at their disposal, and where they had a substantive interest in the matter before the commission, nonetheless being unable to pursue it. Not only are we then addressing one grave problem that we face at the present time, that is, the problem of justice deferred is justice denied, but we might be creating another one if, in the future, in a couple of decades, some nefarious Government of maybe neither political persuasion of the Parties currently in office, given the volatility—

The Hon. Ted Chapman interjecting:

Mr LEWIS: Whatever; who knows. Things move quickly and at an increasing rate these days, I have noticed, and change faster than most people's conservative perceptions of values allow. Events since the beginning of this year in political terms would illustrate the truth of that remark, I am sure. I am not wishing, therefore, to delay the Committee but to make the point that whereas we are addressing the problem created by deferring justice and thereby denying it, on the one hand, we may be creating another problem if an unprincipled Government decided to split the forums. I thank the Minister for the assurance which I understand he has now given us that it is not intended that any Government in the future should ever use this as a device to make it impossible for people wishing to be represented before a commission to be able to do so. I thank the Minister for that general assurance.

The Hon. G.J. CRAFTER: I think the honourable member might be inferring from my comments more than I can actually provide to the Committee. After all, it is the royal commissioner or royal commissioners who are vested with that power and responsibility. As I have explained to the Committee, it is encumbent upon them to organise the conduct of the royal commission in a way that will not in fact bring about the consequences that the honourable member fears. So, this Government or any future Government cannot give an absolute assurance that that situation will not occur. All I am saying to the Committee is that that is not the intended consequence, and I cannot see the circumstances where it would be the consequence.

Clause passed.

Clauses 4 to 12 passed.

New clause 13—'Summary Proceedings for Offences.'

The Hon. G.J. CRAFTER: I move:

Page 3, after line 36—Insert clause as follows:

13. Section 25 of the principal Act is amended by striking out '(not being indictable offences)' and substituting '(not being punishable by imprisonment)'.

As I have explained to the Committee, this amendment has come about as a result of advice received from Parliamentary Counsel to clarify the way in which proceedings for offences will follow. There was an argument that under this Bill, there was a degree of ambiguity, and this amendment makes clear those offences which will be heard summarily and those which will proceed to be heard upon indictment. I think that all members would see the merit of clarifying this matter in this way.

Mr LEWIS: I profess no great knowledge of the law and the meaning of the terms used within it. Given the very short notice—I mean, halfway through a second reading speech—and having the amendment placed in front of you is hardly the time to work out what it means. I ask the Minister to explain for the benefit of the Committee what is the difference in terms of the shades of grey involved between the words 'indictable offences' and 'punishable by imprisonment'. What is the nuance of difference that compels the Government to move this amendment.

The Hon. G.J. CRAFTER: To put the matter simply, it is a division of offences between those which are the less serious offences and those which are the more serious offences. The less serious offences can be heard generally summarily before a magistrate in a magistrates court; the

indictable offences are usually heard before a judge and jury. The Act was a little ambiguous as to the division of those offences and this amendment clarifies which offences will be heard and by which method in a court.

Mr LEWIS: Is there a difference between 'indictable offences' and those 'punishable by imprisonment'? That is the nub of it, isn't it?

The Hon. G.J. CRAFTER: Yes. Generally those offences that are punishable by imprisonment are the indictable offences being more serious offences.

Mr LEWIS: What offences punishable by imprisonment are not indictable offences or, alternatively, are there any indictable offences not punishable by imprisonment? Is it a question of semantics or is there a genuine difference between the classes of offence described by the terms which are being referred to in this instance? It is proposed to substitute the words 'indictable offence' for 'punishable by imprisonment'. I do not understand the difference; I thought that they were the same.

The Hon. G.J. CRAFTER: I will try to explain as best I can to the honourable member. The Act provides for a series of penalties: some are monetary penalties and some are penalties by way of imprisonment and the like. This legislation, per this amendment, will provide that those offences which carry a penalty of imprisonment shall be dealt with by the courts as indictable offences. That was provided in the Bill but it was not clearly stated and this amendment clarifies the situation. All offences which involve a term of imprisonment shall be dealt with not summarily but by way of an indictment.

Mr LEWIS: Clause 25 of the principal Act provides:

> All proceedings in respect of offences against this Act not being indictable offences shall be disposed of summarily.

It is proposed to change that to read:

> All proceedings in respect of offences against this Act not being punishable by imprisonment shall be disposed of summarily.

The Hon. H. Allison: Money summarily, imprisonment no.

Mr LEWIS: I see. I did not know that there was any difference at all between 'indictable' as a term used to describe an offence and 'punishable by imprisonment'. I thought that an indictable offence was one and no other kind than one which was punishable by imprisonment. I did not understand why the Government needed to change it.

The Hon. G.J. CRAFTER: It is not quite as simple as the honourable member explains. There is indeed a series of indictable offences and some can be dealt with—

Mr Lewis: By fine?

The Hon. G.J. CRAFTER: Some can be dealt with by other means. The aim of this amendment is to clarify beyond doubt that all offences where there is a penalty of imprisonment are dealt with as indictable offences. As I have said, there is an ambiguity if that is not stated clearly. There could be an argument that some may be dealt with summarily and it seems desirable that they be dealt with consistently and that all penalties that involve imprisonment should be dealt with as indictable offences. There should not be a debate or an argument as to the appropriate jurisdiction for hearing those offences. This amendment clarifies that situation, as was always intended by the legislation.

New clause inserted.

Title passed.

Bill read a third time and passed.

STATUTES AMENDMENT (COAST PROTECTION AND NATIVE VEGETATION MANAGEMENT) BILL

Adjourned debate on second reading.

(Continued from 24 March. Page 3536.)

The Hon. JENNIFER CASHMORE (Coles): This is a relatively uncontentious little Bill and on that basis the Opposition supports it. However, the Bill opens up three very contentious areas: the Government's administration of planning, native vegetation and coastal management. I will refer to those matters in due course.

The aim of the Bill is to remove the requirement for the presiding officer of the South Australian Planning Commission to be presiding officer of the Coast Protection Board and the Native Vegetation Authority. This provision in the present Acts has its roots in the past and is linked to the fact that the presiding officer of the South Australian Planning Commission currently has a number of additional roles, including the chairmanship of these two boards.

There is no functional reason why the presiding officer of the Planning Commission should also be presiding officer of the Coast Protection Board or the Native Vegetation Authority. The appointment of the presiding officer as Chairman of the Native Vegetation Authority was arrived at after the select committee in another place, in an attempt to deal with the entirely unsatisfactory nature of the native vegetation legislation, sought, somewhat in desperation, a person who could be seen to be neutral and independent for the chairmanship of the Native Vegetation Authority. At the time the Liberal Party opposed that appointment believing that the Chairman should be someone with a required broad knowledge of native vegetation and its importance to the State. The Democrats also expressed concern at that time.

However, I am pleased to acknowledge that that provision in respect of the Native Vegetation Authority and the Coast Protection Board has worked well because the chairman of the South Australian Planning Commission, Mr Stephen Hains, has exercised his chairmanship role in each of those capacities in an exemplary manner which has earned the respect and admiration of those with whom he has worked in each of those three areas. I am very pleased on behalf of the Liberal Party to pay tribute to Mr Hains for his profound and beneficial influence on planning and to congratulate him most warmly on his appointment as director designate of planning in the Department of Environment and Planning.

The Bill provides that a replacement member on the board be the Director-General of the Department of Environment and Planning or his nominee. It would therefore technically be possible, if the Government wanted it, and if Mr Stephen Hains wanted it—and I understand that he does not—for Mr Hains to continue as Chairman of the Coast Protection Board and the Native Vegetation Authority.

Whether it is Mr Hains, or whoever, it is absolutely essential that the Chairperson of both bodies have a knowledge not only of vegetation on the one hand and coastal management on the other but also of planning generally because each of those issues is inseparable from the whole area of planning. That is why, although the Opposition does not quarrel with the sense of the proposition that part-time chairpersons are quite appropriate for these boards, we do insist that if there is to be a coordinated, cohesive approach to planning in South Australia the people who are appointed chairpersons of those boards should be acknowledged as having expertise in the area of planning. The Royal Austra-

lian Institute of Planners is most insistent upon this and, I believe, justifiably so.

It is so easy to look at each of these issues in isolation without being aware of the way each issue impinges on a whole range of other issues, and thus to take a narrow and rigid view of native vegetation, coastal management or, indeed, any other issue, all of which relate in some way or another to planning.

Mr Lewis: Another job for the boys.

The Hon. JENNIFER CASHMORE: Indeed, it is not a job for the boys or for the girls. The introduction of this Bill raises the whole question of the Government's administration of planning, be it planning generally, coast protection or native vegetation management. It therefore provides an opportunity, in speaking about the South Australian Planning Commission, to talk about the Government's administration of planning which has come under very severe attack indeed in recent weeks.

The Hon. D.J. Hopgood interjecting:

The Hon. JENNIFER CASHMORE: In view of the contents of the Bill, the Deputy Premier says that I need to be careful about what I say. The ruling of this House on the breadth of debate in terms of second reading speeches, particularly lead speeches in such debates on Bills has traditionally been of a very tolerant nature. I trust and feel certain that such tolerance will be exercised on this occasion.

The Hon. Ted Chapman interjecting:

The ACTING SPEAKER (Mr Duigan): Order! I accept the point raised, but we have in front of us a Bill dealing with amendments to the Coast Protection Act and the Native Vegetation Act and not to any other Act. I therefore ask the member for Coles and all other members speaking in the debate to confine their remarks to those two areas, albeit with the possibility of cavassing some general matters within the purview of those two Acts and no others.

The Hon. JENNIFER CASHMORE: I am quite certain that the Minister and his colleagues will do everything possible to protect him from any further scrutiny of his administration of planning generally because that administration is so appalling that it would be no wonder if all members of the Government were to hang their heads in shame at the way the Planning Act of this State has been subverted.

I refer in the first instance to the Government's administration of coastal protection. Upon reading of the annual report of the Coast Protection Board, the status of the Chairman of which is to be altered under this Bill, and particularly if one reads between the lines (and it is easy to do that as it is not a very detailed report), one finds that the board is struggling desperately to fulfil its functions in the face of entirely inadequate resources. The Chairman of the board and its members have had to attempt to administer an Act with totally inadequate resources. A glance at the budget papers over the past four years would indicate just how bad is the position in relation to coast protection in South Australia.

In 1983-84 the actual payments to the Coast Protection Board were $2 057 000. The following year (1984-85) the reduction was to $1 510 000. The following year we saw a further reduction to $1 105 000 and the following year down to $623 000. The current year shows a figure of $1 137 000. They are puny funds. The actual percentage reduction in dollars from 1983-84 to 1987-88 is $920 000—nearly $1 million has been sliced off the Coast Protection Board's budget at the very time in the State's development when coast protection is absolutely critical, when coastal management is critical and when information about coastal matters is essential for the Government to make vital decisions about the future development of this State.

I need only mention the question of marinas and the fact that there are almost 40 applications before the Government for the development of marinas, many of which have been hotly contested on environmental and social grounds. It is essential, therefore, that the Government be fully conversant with the impact of such marinas upon the coast of South Australia. How can that possibly happen when the body that is supposed to provide such information and advice and give an indication of what is desirable, possible, or should not be entertained on any account, has its budget slashed over a four-year period by almost 50 per cent? The reduction in the Coast Protection Board's budget over the last four budgets is 44.7 per cent. If we are looking at translating those sums in real dollars from 1983-84 to 1987-88, it is $1.5 million, which in percentage terms becomes $57.2 million.

That is an appalling indictment of the way the Government gives a job to the Coast Protection Board under its statute and then ties the hands of the board behind its back by depriving it of the resources to fulfil its obligations under the law. The Government has no defence against any inadequacy in the way in which coast protection in this State is perpetuated—and plenty is inadequate—because it simply has not given the board funds to do the job.

In light of the difficult circumstances the board has had, the annual report indicates at least a very conscientious effort to determine priorities and attend to them in the best and most effective possible fashion. The Government has shortened the budget of a board responsible for looking at the coastline of this State—a coastline which is extraordinarily extensive and unique in terms of Australian States in that we are the only State with three peninsulas and the gulfs. Because of the nature of our coastline we have an unusual and unique emphasis (or should have) on the importance of coastal protection and management. Yet, the Government and the Minister put such a low priority on this area of operation that the budget is slashed by more than 50 per cent over a four-year period, that four-year period occurring at a critical time in the coastal development history of the State.

The other matter is native vegetation. Some of my colleagues will canvass this matter in somewhat more detail, but I believe that the Native Vegetation Authority has worked under extraordinary difficulty because of, among other things, a failure by the Minister for Environment and Planning (who is also Minister of Water Resources and responsible for the Engineering and Water Supply Department) and by the Minister of Agriculture. My colleagues will be able to cite many an instance where the Native Vegetation Authority has not worked as it should, but the particular matter to which I draw the Minister's attention is the fact that his department, the Engineering and Water Supply Department, and the Department of Agriculture simply do not seem to be able to get their act together in terms of land clearance in the Murray-Mallee in order to protect the Murray River from salinity. The Engineering and Water Supply Department has stated that there will be no more land clearing 40 kilometres south-east of the river, but clearing continues north of the river. A 40 kilometre zone has not been declared north of the river and who is to say that, for some amazing reason, salinity drifts only southward and not also northward?

Mr Lewis: Who is to say it goes only north-west and that it doesn't come southward?

The Hon. JENNIFER CASHMORE: Indeed. Meanwhile, the Engineering and Water Supply Department has

stated that it does not need to declare a zone, because it was told by the Department of Environment and Planning that clearing would not be allowed. The Department of Environment and Planning says that it does not prohibit clearing, because the Engineering and Water Supply Department has done so. That is a complete run around of the most serious kind, because we are talking about an issue—namely, salinity—which affects the State's life blood and livelihood.

We know that the Minister has better ears than most of those in Cabinet, because he is the only one who heard his colleague declare a personal interest in a matter before Cabinet—we know that he has excellent hearing—but if he can listen to a conversation and speech at once and can give substantive replies in this second reading debate, then I think he is a little more skilled than any member would give him credit for.

Ms Gayler interjecting:

The Hon. JENNIFER CASHMORE: The member for Newland makes an interjection. One would have thought that she would hope her ministerial colleague would listen to this debate. It is a minor Bill, but it is a very major matter and we at least expect the basic courtesy—

The ACTING SPEAKER: Order! I ask all members of the House to return to the substantive matter which is before us, that is, the second reading debate on this Bill.

The Hon. JENNIFER CASHMORE: Those two simple aspects—the inadequacy of budgets provided for coast protection and the complete inadequacy of sums provided to the Native Vegetation Authority in terms of compensation for land which is refused clearance application—demonstrate that the Government's administration in this area is very much lacking. The whole planning area embracing these two aspects is even more seriously lacking and I draw particular attention to the fact that, whether it is native vegetation, coast protection or any other issue, including matters of State planning significance, the Minister's replies to correspondence are at best received three months after letters are written and at worst can take up to a year. I once waited for more than six months for a reply to a telegram. I have waited since early November for replies to letters of an urgent nature in relation to native vegetation clearance and I received one reply yesterday. That is the best part of four months the Minister takes to reply to an urgent letter.

No-one in the planning area seems to be able to get to the Minister to discuss these issues and yet the Minister appears to be totally engrossed with what seems to be a very large number of personal staff, who obviously are either not sufficient in number to deal with the correspondence or not instructed accordingly by the Minister. I think it is an indictment that someone administering Acts as important as the ones to which we are now referring (that is, the coast protection and native vegetation management measures and the South Australian Planning Act) takes up to four months to reply to urgent correspondence, and the reply can be longer for non-urgent correspondence. I know that local government shares this view, and I have a considerable list before me of complaints by local government about the Minister's administration of planning, their concern about delays in authorising supplementary development plans, their concern—

The ACTING SPEAKER: Order! I call the member for Coles to order and I remind her of my earlier ruling about straying from the substantive matter which is before us. Her earlier contribution suggested that the lead speaker for the Opposition be given some latitude in canvassing general matters relating to the Bill before us, and I have allowed that. However, earlier in her contribution she suggested that there was quite a degree of latitude.

I have taken the opportunity to look at Erskine May and I have noted that, in particular, while the general objects of the Bill may be considered and it may go to the principal issues, one of the things that is specifically excluded from the second reading contribution is general criticisms of the administration. If the member for Coles was anticipating to move into a general criticism of the administration of either the Planning Department (which is not before the House) or the management of the Native Vegetation Authority, I would have to suggest that she draw her attention back to the substantive matters that we have before us and not to venture into that area of general criticism of the administration.

The Hon. JENNIFER CASHMORE: Mr Acting Speaker, it is very hard indeed to separate the administration of an Act which we are amending by a Bill before the House from the Minister's administration of that Act. I would venture to say that it is impossible to do so. The matters I have canvassed are directly relevant to the Acts which are being amended, namely, those relating to coast protection and vegetation. The Planning Commission Chairman is part of this Bill and is mentioned as such. It is simply not possible for members of the Opposition to fulfil their function of scrutinising the administration of the Government without referring to these matters.

The ACTING SPEAKER: Order! The member for Coles is contributing to a specific amendment to the Act, namely, to change the composition of the authority for native vegetation and for coast protection. It is not a general debate about the whole Act or its administration. The difficulty is presented by the Standing Orders and by the conventions established by Erskine May in dealing with matters before the House. We are therefore required, by virtue of the way that we deal with matters, simply to confine ourselves to matters that we currently have before us, which in this case is the composition of those two boards.

The Hon. JENNIFER CASHMORE: I cannot argue with you, and quite clearly I am not in a position to do so. I simply point out that in the past such wide ranging debates have been permitted. I will confine myself, as I believe I have, to the matters that are strictly relevant to this Bill.

I wish to refer briefly to clause 3 of the Bill, which strikes out subsections (1) and (2) of section 8 of the principal Act and substitutes other subsections identifying the six board members. In this regard, I point out to the Minister that it is really time that the Government caught up with the fact that the South Australian Government Tourist Bureau was abolished in the early 1980s, in late 1981 if my recollection is correct. Since then, it has been known as the South Australian Government Travel Centre. I believe that in terms of the Government's nominating a member of that organisation to the board the most appropriate wording in the Bill would be 'Tourism South Australia', because the officer currently serving on the board is not on the staff of the Travel Centre as such but is employed by Tourism South Australia.

It is reasonable that, when a change is at least six years (more like seven years) old, the Government might have caught up with it. It is an indication of the sloppy way in which things go through this Cabinet when the Minister of Tourism, when this Bill was before Cabinet, did not even realise that the department which she administered no longer had such a thing as a South Australian Government Tourist Bureau. The Opposition does not intend to move an amendment to correct the Government's inadequate drafting of the Bill: we just wish to draw this matter to the Govern-

ment's attention so that the proper correction may be made at the appropriate time.

I conclude by saying that the Government's record and the Minister's record on planning are woeful. If the Minister hopes to escape criticism on this Bill, such criticism will simply be deferred and not for long. Such criticism is now so widespread among many organisations, going way beyond individuals and deep into the planning profession and into local government. Indeed, such criticism is being voiced so widely throughout local government that to try to escape it through a device of Standing Orders in respect of this Bill is simply to defer momentarily the further criticism that the Minister will certainly receive on the way in which he administers planning in this State.

The Opposition supports this Bill in terms of its intention. However, in Committee I shall ask the Minister what are his broad intentions as to the qualifications that he considers desirable for the chairpersons of both these boards, because we regard it as essential that planning expertise be at least one of the qualities that the appointee brings to the board. I have checked with the appropriate bodies and have found that the United Farmers and Stockowners organisation has a special interest in the Native Vegetation Authority.

While that organisation originally supported the concept of the Chairman of the Planning Commission being Chairman of the Native Vegetation Authority, as part of the review process it came to, or agreed with, the conclusion that it would be appropriate to have a part-time chairman. So, on that count we cannot disagree. Nevertheless, the Opposition will closely monitor the way in which the changes work and will watch closely to see that there is a coherent and coordinated approach to planning in these three areas—coastal management, native vegetation, and the whole administration of the Planning Act in South Australia.

The Hon. D.C. WOTTON (Heysen): I shall speak only briefly on this legislation, because some of my colleagues also wish to be involved in this debate. The Bill aims to remove the requirement that the presiding officer of the South Australian Planning Commission be presiding officer of the Coast Protection Board and of the Native Vegetation Authority. The main reason for my taking part in this debate is that I recognise the changes that have been foreshadowed by the Minister for Environment and Planning in his second reading explanation, especially the fact that there is to be a change in the position of Chairman of the Planning Commission.

In his second reading explanation, the Minister took the opportunity to commend the current Chairman of the Planning Commission for his work in that capacity and I, too, add my commendation for the work of Stephen Hains. As Minister for Environment and Planning, I was pleased when Stephen Hains accepted that extremely important position. He has served very well indeed as Chairman of the Planning Commission and also as Chairman of the Coast Protection Board and of the Native Vegetation Authority.

He has served in those positions during a complex period, especially considering the complexities that have resulted from the new Planning Act. He has been very much involved in some of the reviews that have been carried out and he has worked closely with people as they have sought to implement changes to the planning system in this State that have resulted from that legislation. I congratulate Stephen Hains on the work that he has done and I wish him well in the new position that he is to take up soon.

I am very much aware of the changes that are to be made as a result of this legislation, and I shall be interested to question the Minister when the opportunity arises, especially as to the attitude of the professional planning bodies that were vocal when the legislation was being drawn up regarding their desire to have the presiding officer of the South Australian Planning Commission as Chairman of the Coast Protection Board and Chairman of the Native Vegetation Authority. Members of the professional planning bodies believed that to be essential at the time and I recall on a couple of occasions receiving strong representations from those bodies. I presume that the Minister has consulted with those groups.

The Hon. Jennifer Cashmore interjecting:

The Hon. D.C. WOTTON: Perhaps I should use the word 'hope' instead of 'presume', because that has not been the case in the past—a fact to which I shall refer a little later in my speech. One would hope that the Minister has consulted with organisations such as the Royal Australian Planning Institute and others which, when the legislation was drafted, were very vocal indeed. In Committee, the Minister may refer to some of the opportunities provided for those bodies to have their say.

While people such as Stephen Hains have done a commendable job, I, like my colleague the member for Coles, am particularly concerned about the overall administration of the Department of Environment and Planning and the responsibilities coming out of that portfolio, certainly as they relate to the Native Vegetation Authority and the Coast Protection Board.

[*Sitting suspended from 6 to 7.30 p.m.*]

The Hon. D.C. WOTTON: Prior to the dinner break I took the opportunity to commend Stephen Hains for the magnificent work he has done as Chairman of the Planning Commission, and I went on to refer to the current administration of the Department of Environment and Planning on the part of the Minister. I have some very real concerns—and some of them have been referred to by my colleague the member for Coles—that this Minister is responsible for at least three very large areas—environment and planning, water resources and emergency services.

The Hon. D.J. Hopgood: You reckon I'm too busy?

The Hon. D.C. WOTTON: I think that you are too busy and, because you are too busy, you are not doing anything properly. I gain that impression when I meet the people who work in the Minister's department—some of them I knew when I had that responsibility—and many of them point out that they do not see the Minister in the various departments. That can only mean that he is not keeping in touch with what the department is about and what his responsibilities are; and that is of considerable concern to me.

Comparing the size of the ministerial office now with the size of the office when I was Minister, one can see the difference: there are now something like four ministerial officers and some 12 public servants. No wonder the Minister is not getting out into his departments; he must be spending all his time briefing his staff. I think that that is a great pity, because these are responsibilities that the Minister has, and it is appropriate that he should keep in touch with his departments.

I now turn my attention to the Native Vegetation Authority and the Coast Protection Board, because these are two specific areas dealt with in this legislation. I have been pleased to follow the work of the Coast Protection Board over the past few years. This State is fortunate in that it has a very stable board, comprising members with considerable expertise, although they are certainly serving under

considerable difficulty. As the member for Coles said, the major difficulty is the reduction in resources generally, and she was able to refer specifically to the reduction in figures that has occurred over the past few years. Those members have a considerable responsibility. This State has the gulfs and a very extensive coastline. I know that, in working closely with local government, those specific demands are placed on that board, as well as the responsibility it has under its own statute. During the Estimates Committees I have taken the opportunity on a number of occasions to point out to the Minister and the Government the needs of this board and to express the wish that the Government, and the Minister particularly, might recognise the need to increase its funding. I will not say more at this stage, because I know that many other members wish to speak. Again, however, I refer to the guidance that has been given to that board in the past by the Chairman, Stephen Hains.

I do not have any particular concerns about this legislation removing the requirement for the presiding officer of the Planning Commission to be the presiding officer of the Coast Protection Board. That does not worry me particularly and I believe that, as long as the person who accepts that responsibility has a good understanding of planning procedures and of the department generally, that will be sufficient. Time will tell. I will be interested to know whether the Director-General will accept that position and, if not, who will be his nominee.

In relation to the Native Vegetation Authority, I know that a number of my colleagues wish to provide specific examples about the frustrations that have been experienced over a long time—probably ever since that authority was established. I have had dealings with it recently when representing my constituents. At times I have been extremely frustrated about the way in which the authority has handled the requirements of my constituents. Again, speaking of Stephen Hains as Chairman, there have been other times when he and some of his colleagues have been able to act very responsibly on behalf of constituents.

As I said at the outset, the main reason for me wanting to take part in this debate was to express my thanks and to commend Stephen Hains on the difficult task he has had since his appointment. Again, I refer particularly to the complexities of the Planning Act, and he handled that responsibility very well. I wish him well in his new position, and I support the Bill.

Mr BECKER (Hanson): I wish to follow on the remarks of the member for Heysen in paying a tribute to Stephen Hains, who is the Chairman of the Coast Protection Board, and thank him for his endeavours on behalf of my constituents. It is a pity that we are seeing the role divided into three. Mr Hains was responsible for the Coast Protection Board and the Native Vegetation Authority, but we now find that these tasks will be divided and managed by three different people. You would well remember, Sir, when you worked for the Western Region of Councils, the long hard battle we had in protecting the western part of my electorate and the beaches from Brighton through to Glenelg, and how we endeavoured to borrow sand from the northern beaches and bring it back down to those areas, particularly at Glenelg North, to try to preserve and protect a very valuable environment and foreshore.

I also remember a few years ago having to write to the Chairman of the State Planning Authority complaining about the actions of the West Beach Trust, which was expanding its Marineland caravan park. Somebody had placed a permanent sited caravan on the back part of the frontal sand dune, interfering with the view of one of my constituents who had a block of home units. I wrote to the authority and asked how it could do this, and the authority advised me, in simple terms, that it could not be done; that Planning Authority approval should have been obtained to do this; that the Coast Protection Board should also be involved; and that neither authority would have approved of such a decision.

So, I could not see any conflict of interest between the Chairmen of the Planning Commission and the Coast Protection Board. In actual fact, I welcomed it. I felt that the joint role was beneficial in this case and it would be beneficial to any of us in the metropolitan area.

The sand dunes at West Beach have suffered tremendously. We have lost about 100 metres since the rock wall was put in front of the Glenelg North sewage treatment works in an attempt to stabilise the sand dunes and protect the pipelines that run to the sea. Unfortunately, a considerable amount of damage has been caused to those pipelines and they continuously have to be cemented in like great concrete bastions, but it is still not working. The pipeline to the Marineland aquarium that brings out the salt water has been under threat for many years because of the loss of these valuable sand dunes.

We also value the work of the Planning Commission and the Coast Protection Board in stabilising the beach at Henley Beach South. The use of fencing to stabilise the sand movement, at the same time as planting the area with native grasses, has paid off. The build-up of sand and the creation of small but natural dunes at Henley Beach South near the Torrens River outlet in the past few years has developed extremely well, and it extends almost down to Henley Beach Road, nearly one kilometre. It has been an outstanding piece of engineering and work by the Coast Protection Board but, more importantly, the local Henley and Grange council. It was originally the concept of the former Mayor of Henley and Grange, Ron Edwards, who believed that the system could work, and it has helped to stabilise that beach area. It is a shame that that work has not been carried out on other parts of the metropolitan coastline, particularly at West Beach and further south to Glenelg North and Brighton. I just hope that the expertise gained by the Chairman and by the members under Stephen Hains' chairmanship will not be lost. I hope that the planning experience will not be lost and that the concept of using natural grasses that bind the sand and keep it from drifting away also will not be lost.

The only tragedy of the whole exercise of splitting up the roles of the person who was looking after the three authorities, and quite capably, was that the Coast Protection Board was not being given the funding it deserved. The Government re-established its priorities in 1984. To 30 June 1984 the Coast Protection Board had something like $2 million; in 1985, that had fallen to $1.5 million; by 1986, it had fallen further to $1.1 million; and by 30 June 1987, it was down to $600 000, a dramatic loss of $1.4 million. They were very valuable funds, required for coastal facilities in the metropolitan area and certain country areas to repair the damage that had been caused but, more importantly, for the sand replenishment program at a cost of about $400 000 on average. With the loss of Mr Hains from the chairmanship, it will be necessary to bring in a presiding officer who can combine the experience and continue the good work of the Coast Protection Board which was established in 1972.

I have always believed, and I think everybody did believe, that the Coast Protection Board would have a far greater coastal planning function than it has ever had. There have been many attempts by the Coast Protection Board to intro-

duce planning control. I well remember one occasion (and the member for Heysen would remember it also) when our Government tried to bring in planning control over an area 100 metres back from the high water mark.

The Hon. D.C. Wotton interjecting:

Mr BECKER: The member for Heysen thought that it was a good idea, although the member for Hanson did not think it was a good idea because it would have made my house and those of my two neighbours the most exclusive residences in Glenelg North, because we missed out. Every house would have come under the Coast Protection Board apart from three or four.

The Hon. D.J. Hopgood interjecting:

Mr BECKER: Of course I had a conflict of interest. I did not mind; I was sitting out of everybody's reach. I felt it was pretty restrictive legislation for the people residing along our metropolitan coastline who had not had sufficient opportunity to be aware of the Government's proposal in the planned legislation. Certainly in my electorate people knew all about it and were alerted to it. I still think somewhere along the line there needs to be some master plan. There have been many opportunities to draw up plans, but there has always been that little difficulty in bringing them into fruition.

The Hon. D.C. Wotton interjecting:

Mr BECKER: The member for Heysen referred to the toilet block—

The ACTING SPEAKER (Mr Duigan): Order! The member for Hanson should not respond to interjections but continue to direct his remarks to the Bill before the House.

Mr BECKER: Thank you, Mr Acting Speaker. I see the role of the presiding officer of the Coast Protection Board as one of great importance, as is the role of the Chairman of the Planning Commission. As I said earlier, you, Mr Acting Speaker, as the Secretary of the Western Region of Councils, would be aware of the problems that we have experienced for many years along the metropolitan coastline affecting my electorate and Henley Beach, Brighton, Morphett and so on. I hope that the splitting up of the position will guarantee that the high level of expertise will be retained and the level of Government funding can be continued. I hope that the Government will re-establish its priorities to ensure that the good work and planning that has gone on in the past will not be lost and that the proposed planning will be realised thereby protecting probably our most valuable resource in the metropolitan area, certainly in the western suburbs, that is, our foreshore.

The Hon. TED CHAPMAN (Alexandra): Let us look at this subject of planning. I have had a little talk with the Minister. He has explained to me that the purpose of this Bill is simply to take out of the principal Act a requirement to have the Chairman of the Planning Commission act in a couple of other authoritative capacities. In order to free up the system and allow a little more flexibility, I suppose it might be called, in the appointment of such people in high places, then that section of the Act is to be removed. I have no objection to that. From time to time administrative adjustments to the Act and regulations under the respective Acts is probably a process that we ought to applaud. I want to say, however, just a little bit about the principle of planning *per se*.

Planning in this country, as indeed anywhere else in the world, is a part of good management and a part of the process of preparing to spend money and/or to make a change from the natural scene to one of a developed kind. The object of having planning subject to an Act of Parliament in this State, as elsewhere, is to ensure that the actions of one do not create an undesirable impact on another.

The ACTING SPEAKER (Mr Duigan): I take it that the member for Alexandra is talking about planning in respect of coast protection and native vegetation.

The Hon. TED CHAPMAN: Yes, indeed, it embraces those two very important areas as it embraces planning in general.

Members interjecting:

The Hon. TED CHAPMAN: I am getting a little bit of heckling from my colleagues, but they will learn to respect what I am saying one of these days. When they have had as much experience in these fields of development, planning and preparing land, premises and structures and other improvements as I have, they might be in a position to interject while I am on my feet. Indeed, on casting my eye around the building. I note that there are very few people, if any, who have had as much experience as I have in that field. They are all talk theoretically; they have all sorts of ideas to put into legislation, but, when we get down to the bottom line and have a look at the situation in the practical arena, I can hold my own with them and I do not back away from that position.

An honourable member interjecting:

The Hon. TED CHAPMAN: Here comes another one who talks for half an hour on the subject but does not know anything about the practical side of it. Never mind. Let us concentrate, first, on the coastal element of this Bill. I represent the electorate of Alexandra which has around its cadastral boundary more coastline than does any other House of Assembly seat in this State. Members can point in the direction of the South-East or the far west and I repeat the claim that I have just made. I invite them to get out their planimeter and do a little rain check. Furthermore, the coastline around the District of Alexandra incorporating that geographical part of the mainland of the Fleurieu Peninsula and the offshore part of Kangaroo Island is some of the most spectacular of all the coastline of the State. I have actually resided on that coastline all my life, as indeed have four generations of my predecessors. So too has my immediate successor, the sixth generation of my family, and it is with pride that I hope that we will still have some land abutting that coastline of Alexandra on which his or his sister's successors will live, the seventh generation. Again, let me say that it is with just a little bit of experience that I talk about this whole subject generally and the coastal aspect in particular.

Coming back to the spectacular coastline to which I referred, we have cliffs of multi colours and design, 600, 700 and 800 feet in height. Accordingly, we have coastal boundaries which define the reserve adjacent to that seaboard. We have coastal zone boundaries that have been prescribed and proclaimed as defining the coastal areas of the respective councils under their supplementary development plans, and more recently we have what has become known as a coastal management area, thereby creating a third boundary in order to define the coastline or, more especially, those so-called sensitive areas of the coastline that require protection, either by the department as a whole or by the Coast Protection Board in particular. Members should note that I am dealing with an ingredient of this Bill.

However, despite that confusion and disarray, my colleagues on this side of the House have done little else but shower flowers on officers of the department, for God's sake. A lot of those do not know any more about the subject than some of my colleagues who have professed to do so.

They are great guys and great girls, no doubt, but, fair dinkum, on the ground they are as useless as a bird without a feather; in so many respects they do not appreciate the practical situation.

Let me give a classic example of this. In my community near where I live the coastal zoned boundary is five kilometres inland from the coast and, on land, between 600 and 800 feet above sea-level. How damn stupid to think that anyone either in local government, State Government or at a departmental level could put a line on a map and hope to make it stick in a situation like that. I readily agree that there are many sensitive areas of our coastline that need careful protection, indeed protection of the kind that ordinary, nature loving, human people have adopted in their management practices over the generations. First, they keep the livestock off those sensitive areas; they keep the sheep and cattle away from the sandy beaches and the sandhill environs that surround those beaches; and they keep the livestock off those flats and samphire swamps and tea tree patches that are the nature of the land and the habitat around those high water mark, flatter regions adjacent to the bays, estuaries, river and creek mouths of our coastline.

I agree that in all those and similar situations there ought to be very carefully defined boundaries so as to give the appropriate authority the power to control and protect those areas. But to draw lines and use highways, roads and other like boundaries to define areas of high country, hard ground totally unrelated geographically, topographically, soil-wise and otherwise from the coastline, as coastal zoned areas is as absurd as some of the remarks that those officers try to put across to the public. They have tried to put it across to me and we have had a few scraps. I cannot for the life of me muster up favourable remarks about those people who in the main have been so far out of touch with reality on the ground in so many areas in relation to the coastal and environmental aspects of this State as others seem able to do.

I have no bouquets to hand out to the Coast Protection Board, its officers or those who serve on the Native Vegetation Authority of this State. In fact, in relation to the latter, I was recently in the office of the Native Vegetation Branch of the Department of Environment and Planning and I was ashamed to be there as a servant of this Parliament and one who has been involved with administering the Public Service in this State, in the company of my constituents and others of my colleagues. Indeed, the last time I went into those premises a few weeks ago with a South-East developer from Lucindale to rationally and reasonably discuss the situation surrounding his and his partner's property, he, his colleagues and I were rudely treated in the foyer. We were no less rudely treated by officers who clammered to pour on us forms and late docket requirements to be signed before we got into that august chamber of the Native Vegetation Authority. Indeed, within the confines of that authority's chamber we were no more politely treated when seeking to present the case at hand; nor were we when we left that chamber any more politely treated by the officers of the authority. In fact, we made certain requests, with the blessing of the authority of those officers, before departing the premises.

As of yesterday, the requests for extra information have not been upheld. In the meantime, the authority has had the audacity to write to those Lucindale constituents and tell them that the application being considered earlier had now run out of time, that the whole thing has to commence again and that they have to resubmit their application for the clearance of a small parcel of land on their property. They were also told that it is unlikely that it will be granted even if they do. This whole business is so frustrating, and one can go on and on with examples of gross incompetence by those people who profess to be experts in that field. I include in that group the nominees of the UF&S on the panel to which I have referred. I was less than impressed by their contribution the last time and, indeed, the time before when I observed that panel.

In the moment or two available to me I come back to the coastal planning situation and repeat how important it is to identify those areas of our South Australian coastline that require protection not only from livestock, as I mentioned before (that is, livestock owned by adjacent property occupiers), but also from four-wheel drive vehicles and in some cases from people themselves. Indeed, just preventing foot-traversing of the land is an important protection for those sensitive soils in certain areas adjacent to our coastline.

Those areas are minimal. The vast majority of our coastline around South Australia's boundary, and for that matter around Australia, is so rugged and tough that it could withstand not only the elements but also all the abuses and heavy trafficking to which I have referred without the likelihood of any damage at all. As for the planners at local government level and within the Minister's department seeking to prevent people from building near and having a view of the sea, that is absolutely ludicrous. If they are on solid ground, and it is suitable for pouring foundations and erecting a structure, and if they are not therefore interfering with the environment in its broadest sense, why should they not be able, on land they invariably own or are able to acquire, to build at the water's edge as people do all around the rest of the world?

The Hon. D.J. Hopgood: What about Moana?

The Hon. TED CHAPMAN: What about Moana? A two-storey building has been built on the sand at Moana in recent times.

The Hon. D.J. Hopgood: You said it should not have been built.

The Hon. TED CHAPMAN: I did not say that it should not have been built. I asked the Minister for Environment and Planning a question as to who gave the authority to build it on the beach.

The ACTING SPEAKER (Mr Duigan): I remind both the Minister and the member for Alexandra that we are talking about the composition of the Coast Protection Board and not about the management of the Coast Protection Authority.

The Hon. TED CHAPMAN: Thank you for your protection, Mr Acting Speaker. I return to the impact on the coastal area to which the Minister has alluded, without getting into the details of who said or did what. The situation is that a building was erected in recent times right on the high water mark, in fact, closer to the water's edge than the Moana caravan park. It is right at the back of the kiosk, which is built on the beach. It is a delightful two-storey building. I have not received any complaints about it, but the Minister has referred to the subject and I remind him, as I have done a couple of times in the interim, that a question has been asked about that. I do not yet have an answer as to who gave the authority.

Let us leave that for a moment and get back to the situation of placing structural improvements on the land adjacent to the sea. Why should not people in this vast country have access to a view of the sea if they own land adjacent to it? I challenge anybody on this or the other side of the House to give me a good reason why not. If the fishermen or those members of the boating fraternity (of which there are thousands upon thousands) as well as people

on board passing sea transport vessels are complaining, I would like to hear about it. I have never yet heard a seafaring or seagoing person complain of the view that they see from the sea when looking toward the land. I have never heard them complain about any obstruction or construction on the coastline, so why on the coastline and inland should we be concerned about that view from the seaward side? It is really outrageous. Planners in this country have gone berserk. We are being suffocated not only by the planners but also by the bureaucrats putting up all the planning barriers and obstructions that they can muster in order to frustrate developers.

In conclusion (and this is directly related to the Bill), I will say a word or two on behalf of the developers. They are a rare breed. Few people are left in this country who have the incentive, wherewithal and, indeed, the gumption to have a go at development. To see these people crippled, handicapped and frustrated by so-called planners, environmental experts, greenies and do-gooders fairly makes me sick. It is about time we looked at the whole subject of development in a way that enhances our future and that of our successors.

My time has run out, but I hope that one of these days we will see a practical and rational recognition of what I and a few of my colleagues have had to say about a sensible approach to planning and that we get away from this monstrous octopus that is suffocating us all in the field of development in our State.

The ACTING SPEAKER: Before calling on the member for Murray-Mallee, I remind remaining speakers of some comments that I read from Erskine May earlier in this debate. It is hard for members, I acknowledge, and difficult for the Chair, to confine the comments of members to the issue before us. I simply remind members of what Erskine May states:

> The stage of the second reading is primarily concerned with the principle of a measure. At this stage debate is not strictly limited to the contents of the Bill but other methods of obtaining its proposed object may be considered; but debate should not be extended, for example, to general criticisms of the administration of the department or of the provisions of other Bills before the House.

I ask members to comply with that general ruling in respect of the conduct of the House as we move to the next speakers in this very limited measure before us.

The Hon. TED CHAPMAN: On a point of order, Sir, I have listened carefully to what you have quoted from Erskine May. Did you draw that matter to the attention of the House for the benefit of speakers yet to come or was it a reflection on what I said?

The ACTING SPEAKER: I was drawing it to the attention of the five members yet to come. I call the member for Murray-Mallee.

Mr LEWIS (Murray-Mallee): Some time in the future the place where this Parliament stands will be under the sea. Some time in the past the place where this Parliament stands was under the sea. That is a statement that nobody in this Chamber or anywhere on earth can dispute: it is all just a matter of when.

When we contemplate the consequences of the decisions that can be made by the people to whom we give authority in this Bill, we need to recognise that it is not because of what man does that things appear as they are but almost in spite of it. It is not possible for us to fix things the way that we romantically imagine they should be or the way we imagine they should remain forever. It is not within our collective abilities to do that. However, this Bill gives authority to a select group of citizens to discharge for our benefit and that of future generations—

The Hon. D.J. Hopgood: The Act does that, not the Bill.

Mr LEWIS: No, the Bill will make that possible when it becomes an Act.

The Hon. D.J. Hopgood: It is already possible under the present Act.

Mr LEWIS: If that were so, we would not be amending it. Whilst generally what the Minister says may be true, the Act does not provide for that as effectively as it should, otherwise he would not have introduced these amendments. Quite clearly this Bill relieves the departmental head, the Director-General, of the responsibility of being the Chairman of those two bodies. Further, it enables the Director-General to address the other administrative responsibilities which he or she has or will have in the future. Currently, too much of the Director-General's time is taken up in sitting on this board and the authority, but not enough time is devoted to looking after the affairs of administration within the department; otherwise, why did the Minister introduce the Bill? What was the point of it? The amendments relieve the Director-General of the responsibility of being Chairman.

We want to ensure that environmentally we can, so far as is reasonably possible, in the future do the things we want to do. I began my remarks in such a way as to emphasise that we cannot expect to order things to be one way or another for all time. We can only ensure that the actions we take do not further interfere with the natural environment. The very basis of the interference to which I refer is the capacity of *Homo sapiens*, through education, to manipulate not only the health, well being and longevity of individuals but also the environment which produces their sustenance and shelter.

The Hon. H. Allison interjecting:

Mr LEWIS: We have extended life expectancy from something like an average of 30 to 40 years 100 years ago to a much higher figure now and that has made it necessary to do that.

The Hon. D.J. Hopgood: The benefits of deep drainage.

Mr LEWIS: It is the benefits not only of deep drainage but also of controlling pandemic and endemic disease which come as epidemics, such as diphtheria, which used to wipe out whole communities. Members only have to visit graveyards in Kadina or Kingston in the South-East to see the graves of youngsters who died over a period of two years and who did not even reach the age of three or four. Human kind has manipulated the environment in which we live to make it possible for us to avert those disasters because they are so traumatic.

We have also learned to avert other disasters which could overtake us, because we are now here in greater number and we enjoy far higher standards of living than any previous generation or society. We need a Coast Protection Board and a Native Vegetation Authority, but we also need to recognise that they are not there to stop the processes of nature; rather, they are there to stop the adverse impact of man upon it where that impact threatens man's own survival and the survival of a good many species.

I therefore depart from the popular view of the role of these two bodies and other similar aspects of planning (but I will restrict myself to these two bodies) in that I do not think it is an eyesore or an indictment of the communities responsible to have buildings down to the waterline on the Adriatic and Dalmatian coasts, for instance. I can refer to places in Australia such as the inland waters of the sunken river valleys in New South Wales.

The Hon. H. Allison: The St Georges River down the coast.

Mr LEWIS: Quite, and Pittwater north of Sydney, as well as the examples given by the member for Mount Gambier. I do not advocate wholesale and large scale development down to the high water mark on unstable fiord dunes or anywhere else of that nature but, rather, I advocate a sensible, reasonable and sensitive development opportunity on appropriate and stable sites to provide facilities so that people can enjoy the surroundings immediately adjacent to the high water mark. There are plenty of places around the South Australian coast where that is not only feasible but also, in my judgment, quite appropriate and it will enhance our ability to enjoy our own State and to sell it to others who might come here as tourists and, as a result, enhance our standard of living by spending tourist dollars.

To that extent, the Native Vegetation Authority and the Coast Protection Board have a responsibility to facilitate that sort of development. It is not good enough for us to say that it is a piece of natural vegetation, it cannot be chopped down, or that it is too close to the high water mark and buildings cannot be erected there. So long as we can control the effluent and waste, that it does not detract from the aesthetic appearance of the surroundings, and in other respects is responsible, we should encourage and not just approve it. We are doing just the opposite and that is why we are going backwards. Referring to the remarks made by the member for Alexandra—

The ACTING SPEAKER (Mr Duigan): Order! I remind the member for Murray-Mallee that we are dealing simply with the composition of two boards. He is nearly halfway through the speech. I recognise the difficulty of confining one's remarks just to the membership of the board. I am trying to allow wider ranging debate but, having got halfway through, I would like the member now to direct his remarks to the composition of the two boards that this Bill alters.

Mr LEWIS: And I do that, of course. It has a role and a function. Those individuals of which it is comprised are explicitly described in its formation because of the specified abilities they must have. I am providing the House with my view of the way in which they should apply those abilities in their collective wisdom in determining what can or cannot be done. For that reason, I wish the House to take particular note (as I hope ultimately the people appointed under these amendments will take note) of the way in which they should conduct themselves and discharge their responsibilities to the people of South Australia.

To that extent I wish to leave the question of the Coast Protection Board with just one additional remark. I regret that it may ultimately be an unholy alliance between this future board, the membership of which we are discussing, and some mistaken interests elsewhere that results in public access to certain beaches being denied. I have in mind particularly that access to Long Beach on Younghusband Peninsula may be denied not in the name of the survival of a species or in the name of stabilising what has already become a destabilised environment, but in the name of their own precious perception of what should be and what should not be permitted on that beach, and the restrictions that they can place on the numbers of people that can visit that beautiful place, because it will be open only to the young and able bodied (certainly not the disabled) who can walk quickly.

Mr Becker: Why walk quickly?

Mr LEWIS: Because you would be bloody well cut off if you could not! One would have to run 42 kilometres from the 42 mile crossing to the point on Younghusband Peninsula opposite Williams Beach before high tide made it illegal to proceed once the tide has waned and before it waxes again, thereby wiping out reasonable access.

Mr Becker: Is there a warning sign?

Mr LEWIS: No. The next matter to which I wish to address myself concerns the composition and function of the Native Vegetation Authority. I shall not refer to the hooded plover about which I have not bothered to say that they were the subject of heavy predation by the Ngarrindjen before European settlement, and they seemed to survive for the past several thousand years even though their eggs and chicks were prized delicacies of the people living there before European settlement.

Regarding the Native Vegetation Authority, what consequences might flow from a change of the current Chairman? It took long enough for the authority to get its act together in its current construction but, if the Minister chooses to use the new option available to the Government once this Bill is passed, seeing that the Opposition has placed on record only its concern about the way in which it can be used, and suggests to the Director-General that he nominate someone other than himself to do the job, a broken down Labor Party retiree from Parliament could be appointed and we would be in real trouble. That kind of thing is done. Look at what happened with Mick Young, who was appointed to Qantas to look after the flying kangaroo. I know, Mr Acting Speaker, that kangaroos do not have wings but I am talking figuratively about Qantas. This sort of thing does happen.

The Hon. D.J. Hopgood: Whom has this Government appointed?

Mr LEWIS: My goodness, I should not like to mention some of the chaps who have got into top jobs about which they knew nothing. I do not want to embarrass the Government, but look at the ETSA Board.

The Hon. D.J. Hopgood: What about it?

Mr LEWIS: For God's sake, tell me what some of those blokes knew about the administration of the generation and distribution of electricity before they got on to that board. It is a sinecure and this job must never be that, because it is too important. I do not care what is done about the Citrus Board, the hen board or ETSA, but do not do it with these two organisations. Get someone with competence, otherwise we will have a perpetuation of the present mess.

Take one case in particular. Arbitrators tried to settle the problem relating to the poor people of Mantung called the Parkers. After it had been agreed between the department and the Parkers what compensation they would be paid, the department agreed to assess the amount of wood that was on their land and would otherwise be cleared. Quotations of $10 a tonne were obtained from tenderers who required the stuff, and then took stingy sites from which they got only 10.8 tonnes an acre. Now, the department is welching on paying that out: it wants to pay only $2 a tonne.

Would one call the current administration fair or the decisions of the authority reasonable? Mr Craig Whisson, of the department, should know that I disagree very much with the indifferent, irresponsible, hidebound and penny-pinching attitude that he has adopted. Indeed, the Government stands condemned because that is only one example. I could go on but I will not, although I am angered and appalled at the dog in the manger attitude taken in arriving at a reasonable settlement of that decision emanating from the administration of the responsibilities of the Native Vegetation Authority under part of the Native Vegetation Management Act (1985), to which clause 4 in the Bill refers.

I am disappointed and saddened to think that in respect of what was an appropriate thing to have done in the first

instance the Government has seen no cause to take a reasonable attitude and continues to disadvantage the unfortunate freehold owners of the land upon which native vegetation still stands.

I conclude by referring to the remarks made by my colleague the member for Coles, the Opposition spokesman on these matters. God knows, we did not have and do not have sufficient scientific evidence to justify the decisions being made by the Native Vegetation Authority and its members concerning the parcels of land in respect of which they receive and consider applications. We need valid scientific evidence. We should not be retaining the subject land at the individual's expense: it should be retained at the public expense because it is an essential part of the remaining native vegetation, the absence of which will put at risk the survival of species and the genetic diversity of those species.

Too many decisions being made are not based on scientific fact: they are based not even on the arguments that I have advanced this evening but on the precious views of a few idiosyncratic people who think that, because there was a lot once and there is now less, we should stop, and stop at the expense of the unfortunate people who happen to possess the land on which the vegetation stands, and that is not fair.

Mr GUNN (Eyre): In my time in Parliament, two issues have caused selective groups of my constituents great personal and emotional problems as well as financial loss. Indeed, they would have put some of their enterprises at a financial disadvantage. One of these issues was that of wheat quotas and the second is the native vegetation clearance legislation which is currently on the statute books of this State.

The whole subject of planning is controversial and needs to be examined very carefully and thoroughly. The people involved in it should always have at their disposal, if not amongst them (as it should be) the views of practical, reliable and sensible people who have an understanding of the practical realities of life and the needs of industry, commerce and agriculture. Whether we like it or not, reality hopefully will eventually dawn on the decision makers of this State. If it does not, then the difficult economic situation that faces the people of South Australia and this nation will get worse. Whether we like it or not, people have to be prepared to accept that we live in a practical world and that it is absolutely essential that we have development; and to have development people have to be encouraged.

The nonsense that is currently being inflicted on the nation as a whole and on this State in particular, which in many cases has had the dubious record of being the pacesetter and leader in these fields, has to cease. The current Department of Environment and Planning is far larger than the Department of Mines and Energy, but has a much shorter history. The National Parks and Wildlife Service, the Coast Protection Branch, the Native Vegetation Authority and the heritage group are all umbrella organisations that are designed to stop people from going about their lawful business and doing things in an orderly, professional and practical way to advance the economic welfare of this State.

It is no good for Governments to continually say that they want to encourage investment. There has to be a return to encourage investment, and the only way to get investment is to get rid of unnecessary red tape, bureaucracy, and the impediments that are placed in the way of people who really only want to go about their business. The Coast Protection Act and the Native Vegetation Management Act are two important pieces of legislation. I have the highest regard for the Director-General of the Department of Environment and Planning. In my judgment that appointment was one of the best decisions this Government has made. I believe that it has been a bright light at the end of a very dark tunnel. However, I believe that he has a most difficult role to perform, and unfortunately a number of people in the department who are very well meaning do not understand a lot about the practical realities of life.

Of course, this Government is in competition with the Democrats to see who can attract and maintain the support of the so-called 'environmental vote'. We know what damage that has done to the Labor Party in New South Wales. I believe that, as the economic situation gets worse and as people realise that an exclusive group, many of them in the high-middle class, are dictating environmental policy at the expense of jobs and the economic welfare of many sections of the community, the reaction that took place in New South Wales nearly 10 days ago will be followed across this State. That does not mean to say that we should not be careful and that commonsense should not prevail in relation to environmental considerations. Commonsense has to apply and it is not applying today.

In my limited way I have been involved all my working life in endeavouring to produce products that we can sell on interstate and overseas markets. I spent last weekend in areas of the State where massive work is going on and where people are bringing into this country cash that will provide services that are so badly needed. We currently have the situation where this Government is turning off the taps at Marla Bore. The Department of Lands planted 2 000 trees but now it is turning off the taps and letting the trees die because it is out of money—that sort of nonsense.

The Hon. Jennifer Cashmore: Great planning!

Mr GUNN: That is great planning. The Minister has his name up on the plaque at Marla Bore.

The Hon. D.J. Hopgood interjecting:

Mr GUNN: Well, that is a mistake. I know the story as well as the Minister does. We have that situation occurring. We continually have all these impediments put in the way of developers, agriculturists and miners, stopping them creating the wealth that this Government currently needs, so that the Government has enough money to fund this environmentally important project, to continue to supply adequate water to these 2 000 trees. A third of the trees have died because someone in Adelaide said that the tap has to be turned off.

The Premier has the audacity to stand here and say, 'We have given the State Opera $2 million. They have been a bit naughty but they will have to have some more.' Where are the priorities? Where is the commonsense? There are no priorities. I used that as an example; this State and this nation has to carefully look at laws such as we are debating today. My constituents and many others around the State have been treated in a disgraceful manner by the Native Vegetation Authority. The Government has stolen their development rights with the stroke of a pen. None of these people wanted to clear every hectare, and I would not support that anyway. In every case I have been involved in before the authority, if commonsense had prevailed the applicants would have been treated fairly, considerable amounts of native vegetation would have been left in its original state, and the Government would not have been put to the expense of having to meet very large compensation bills.

The question that the Deputy Premier has to answer in this Parliament today is, 'Does the Government have $50 million to fund the compensation that will be necessary if

these people are to receive justice?' If that money is not available then a continuing grave injustice will be perpetrated against those people. I do not want to see this confrontation continue. What do genuine people do when, through no fault of their own, they have been the victims of this legislation when they believe that a reasonable, researched argument has been put to the authority but gets knocked back? They then attempt to go through the scenario of having to apply for compensation. That in itself is a long, protracted exercise which, in my experience, has not been to the benefit of my constituents. We have to come to a situation where we will resolve this matter in a fair and reasonable way.

Those of us who have had some experience in this area are concerned that no-one on the Native Vegetation Authority has been involved in the practicalities of developing agricultural country. Those members do not come from agricultural areas of the State—no-one from the Upper Murray, the South-East, or the electorates of Flinders or Eyre, where most of the trouble is. It appears to me, as a fair and reasonable person, that that authority should at least have one person who understands it. There are dozens of eminently qualified people. I am not reflecting on the sincerity or the other attributes of the members of the authority, but I was always taught that if justice is going to be done it has to be seen to be done. The constituents I give evidence for are fair and reasonable people, and they have an understanding of it.

I know that officers of the Native Vegetation Authority have been to Eyre Peninsula in the past 48 hours, and I am delighted that they have been there, because I believe it is essential that all of those people who have been before the authority and whose applications have been declined have their cases reviewed. I am appalled that certain people have attempted to turn the difficult situations to their own advantage. The way in which one member of that authority acted was not only unfortunate but in my view did a great deal of disservice to the cause of conservation and commonsense. I will say no more about that.

I say to the Minister that, if we are to see this State of ours develop and be able to generate the funds necessary for the welfare of all citizens, legislation of this kind—the Planning Act itself and all associated Acts of Parliament—have to be rationalised into sensible and practical documents. People can have all the well meaning thoughts they want, and they can put forward all the emotive arguments from the loftiest towers, but at the end of the day reality and commonsense has to apply. If it does not, the economic base of the country will be destroyed.

If we go to areas of the State where there is development and where development can take place, and if we talk to the people, we find that they are appalled at the bureaucracy and red tape they have to go through. We have had deregulation units: God knows what they have done. I say now that this matter of vegetation clearance and some of the silly regulations which have been put before the Subordinate Legislation Committee during my time and since, dealing with controls on development in the coastal fringe under the Coast Protection Board, were ludicrous. How any responsible body of people could even allow them to go forward without, heaven help them, putting their name to it, I do not know. In one case it was brought to my attention that if something could be viewed from the water on Kangaroo Island, there was a prohibited use.

The DEPUTY SPEAKER: I do not want to interrupt the honourable member while he is in full flow, but I have listened to the speech with great interest, and it is extremely interesting, but I wonder whether the honourable member could come back to the proposition that we have in front of us which actually relates to the composition of the administration. The regulations he is talking about can be referred to in private members' time in due course. I ask the honourable member to come back to the proposition that is in front of us.

Mr GUNN: Mr Deputy Speaker, I have always tended to be an amenable person and I do not wish to transgress Standing Orders. I was using that as an example. I have read through this Bill with great interest. The whole purpose of my rising to speak on this matter tonight is to express a concern felt by many people in South Australia who have been affected by both these organisations, my concern for the overall welfare of this State as a whole, and my concern to see that the economy of this State is not jeopardised in any way by unnecessary, intrusive or bad planning laws. I believe that we have arrived at a time in our history when we really have to take a very close look at unnecessary regulation, control and legislation. We legislate at the drop of a hat and sometimes we would be better off if we all went home, shut down this Parliament for a while and allowed people to get on with their business without changing the rules in mid-stream.

We have another set of proposals for the composition of these boards. The Chairmen will have a significant role to play in the future direction of this State. I am particularly concerned about the attempts to control development in South Australia. I want to say clearly to the Minister that he can save himself, the Government, his department and the people who have been affected a great deal of time, effort, soul-searching and confrontation if commonsense prevails in the administration. The only way it will apply is if people are treated fairly. If they are not treated fairly, the Government will have to put up the money. I hope that when the Minister responds to this debate, he will indicate how much money has been spent this year in relation to native vegetation, how much it is proposed be spent and whether they have the $40 million to $50 million. If they do not have it, what we have seen to this stage will be nothing.

I also ask the Minister whether he can give an undertaking to this House that there will be no attempt to prevent people from applying for permits to clear native vegetation. It has been suggested by some that there ought to be no further applications. I want to know quite clearly whether that section of greenies who are—

The DEPUTY SPEAKER: I must interrupt the honourable member here and bring him back to the Bill before the House. It has nothing to do with permits in relation to the clearance of native vegetation. It relates to the composition of the board and I ask the honourable member to come back to the Bill.

Mr GUNN: My goodness, it has something to do with permits, because the members of this board are the ones who issue the authorities and permits, and they have not been issuing enough. It has plenty to do with them, and it has plenty to do with my poor, long-suffering constituents and those of the member for Murray-Mallee. It is high time that these people were given a fair go. That is why I am seeking this information from the Minister. I am sick and tired of being fooled around, taking hours of my time trying to get justice. Why is it that when people are called before this board, innocent people who have never appeared before these sorts of authorities before, if they do not have the help of a member of Parliament or someone who is used to speaking in public they get the most cursory treatment. The treatment that one of my poor constituents received (a woman with two little children) was absolutely deplorable.

People are dragged hundreds of kilometres trying to get justice from people who are paid thousands of dollars a year—and they are only trying to survive.

In my judgment, I have every right to raise these matters, but you have the final say, Sir. Purely out of a sense of justice and commonsense do I raise these matters, as I am very unhappy about what has taken place. I want to cooperate with the authority to see that commonsense applies. I do not want to be regarded as the major critic of that organisation: I have better things to do with my time. I just want to see these things resolved, so as long as I am a member of this House I will certainly not refrain from voicing my strongest criticism about this operation. The trouble is that the Government listens to the conservation movement instead of being even-handed. There is an attempt to try to lock on the conservation vote. We know what happened to friend Unsworth in New South Wales. The public has nearly had a thorough gutful of these sort of people. I certainly have, the way they have affected my electorate.

My electorate is a farming community and a mining community. Both of these industries built this nation. If given a fair go, they will keep it, including the conservation lobby, but they have to have a fair go or everyone will go down the gurgler, including those advocates of no further development. These two bodies we are talking about today have a very important responsibility and the composition of those two boards is extremely important.

The DEPUTY SPEAKER: Order! The honourable member's time has expired.

Mr BLACKER (Flinders): This Bill seeks to amend that section of the Act which appoints the Chairmen of the respective boards, being the Coast Protection Board and the Native Vegetation Authority. First and foremost, I add my compliments, if I can put it that way, to Mr Stephen Hains, who has been the Chairman of those authorities for some time. I can well appreciate the Government's predicament in wishing to have him promoted to perhaps bigger and better things.

I think that the flexibility that the Government is requesting on this occasion is valid and it is appropriate that other persons be entitled to be brought in as Chairmen of those respective authorities. Having said that and having paid my compliments to Mr Hains, I think we must look at the operations of the board. In particular, I wish to take up the point that the member for Eyre made about the Native Vegetation Authority. Although my district probably incorporates as much coastline as almost all districts of the State, and I have never really calculated that—

The Hon. D.J. Hopgood interjecting:

Mr BLACKER: I am not too sure about that. Even if he does a lap around Kangaroo Island I am not too certain about that but, be that as it may, it is irrelevant to this debate.

The Coast Protection Board had a part to play in the development of my electorate, as did the Native Vegetation Authority. I have received numerous queries and complaints about the operations of the Native Vegetation Authority and I do not think that there is any doubt that there have been anomalies in the determinations it has made. Certainly, many of my constituents have been unfairly dealt with in the name of conservation. It is not correct that the Native Vegetation Authority should proceed in the way that it has been doing, particularly when this Parliament determined that, if clearance is refused, compensation should be paid. This is where the anomaly comes in and obviously the Government has run out of money, so it has used the Native Vegetation Authority as a means of stalling the obligation that this Parliament set down whereby those people are compensated.

Upon reading the amending clause regarding the Native Vegetation Authority one can clearly make the statement that the authority is, in effect, appointed by the Minister. The Chairman, as presiding officer, is nominated by the Minister; one member will be a person nominated by the Minister fr a panel of four nominated by the UF&S; one member will be a person nominated by the Minister from a panel of four nominated by the Native Conservation Society of South Australia Inc.; one member will be a person with an extensive knowledge of and experience in native vegetation nominated by the Minister; and one member will be a person with extensive knowledge of agricultural land management nominated by the Minister. So, quite clearly the board will be hand-picked by the Minister. One might say that there is an input by the Native Conservation Society and the United Farmers and Stockowners, but the only discretionary powers that they have is that they can put up four names. The Minister still has the discretion as to who shall comprise that board. So, the Minister in the final analysis—and some would say that it is always the Minister's ultimate responsibility—handpicks the Native Vegetation Authority. However, it is the Parliament that determines whether compensation should be paid. That is where the breakdown in this system has occurred, because there are numerous instances of situations where clearance permits have been denied to land-holders and compensation—certainly adequate compensation—has not been paid.

I undertook not to speak at any great length on this Bill because, basically, it is an amending Bill to allow for the Chairman to be nominated by the Minister rather than it being automatic that the Chairman of the State Planning Commission be appointed the Chairman of the respective authorities. To that end I think that this House would go along with the concept that greater flexibility should be given to the Government to allow appropriate nominees to be suggested as Chairmen.

I would like to make one final comment. I am very concerned about what has been happening with the Native Vegetation Authority in recent times. There is more and more disrespect and mistrust of that board and that is what worries me because that disrespect and mistrust will ultimately result not only in rash statements being made, but in rash actions being carried out. It has been said to me on more than one occasion—and I have related it to this House—it will be cash or trees. To me, they are words of ultimatum.

The Hon. Jennifer Cashmore interjecting:

Mr BLACKER: They are standover tactics, but the people who are placed in that position have acquired properties for development purposes and, let us face it, we are now finding that those areas of the State that have been last developed are the ones that are paying the penalty or carrying the conservation can for the rest of the State. Those people living in built-up areas and areas that have been, in the main, totally cleared, are the ones who are getting off scot-free. So a very small section of the community is paying dearly, not only financially but in their personal lives and in their ability to be able to carry on their chosen vocation, in this case, farming and development of farms, and have been denied that opportunity because of misuse, overclearing and abuse of land that occurred three, four or five decades ago. That is the unfair aspect.

It is up to the board, with a new chairman to be nominated by the Minister, to see that fair play takes place. I can tell the Minister—and I have told him on numerous

occasions—that fair play is not taking place in all instances. There are some cases where that is occurring, where people have been satisfied with the compensation that has been offered to them, but there are instances where that person's immediate neighbour has been denied the same privilege. That is where those anomalies need to be ironed out. We need a Native Vegetation Authority that can show the appropriate discretion, the members of which can show that they are fair-minded men and women, able to carry out the will and intent of this Parliament to see that, if the right to clear is denied to the land-holder adequate and proper compensation is paid.

The member for Eyre said that one of the members of the Native Vegetation Authority has publicly made the statement that there should be no more clearing. That is in direct contravention of what the Act provides. The Act provides for clearance, for the appropriate permits to be given; if clearance is refused for right and valid reasons, compensation should be paid. For any member of that authority to stand up and say that there should be no more clearance in South Australia, to me that person is derelict in his duty as a member of that authority. They may well be his personal views and they may be very well-intended views, but it is not his right as a member of this authority put there to carry out the intent of this Parliament.

I hope that the Minister will take those views and comments on board, because it is necessary that if this piece of legislation is to work properly in fairness to all citizens of the State, not just in those areas of the State that do not have any native vegetation left, a fair and balanced approach must be taken.

I will leave my comments at that and ask that the Minister take particular note of the authority's approach to the legislation and its application to the people, because unless that takes place we will get greater confrontation and the 'cash or trees' ultimatum that has been put forward on more than one occasion will ultimately become a reality unless commonsense not only does but is seen to prevail.

Mr S.G. EVANS (Davenport): I support the Bill. I accept the reasons why the Government wishes to change the method of appointment of, in particular, the presiding officer of the two boards. I wish to speak mainly about the Native Vegetation Management Act and the power that the board will have under it as well as the decisions it has to make. I hope, without encountering difficulty of interpretation of how far I can go, to briefly raise with the Minister the concerns I have about conflicts in Acts with which this board will be involved if somebody ends up in a court, particularly with properties in what I call the near hills.

In my view there is more native bushland, exotic plants and noxious weeds in the near hills around Stirling, Blackwood and Clarendon and through the East Torrens Council area than when I was a boy. That might surprise some people, but many of the properties cleared and used for intensive cultivation or grazing have been left and neglected. Some have gone back to noxious weeds and others have gone back to native vegetation. Exotics have been planted around homes for ornamental purposes. Briefly, my concern, which I hope the Minister will take up with his colleagues, is that under the Native Vegetation Management Act severe penalties exist for this board to apply if somebody contravenes the Act. Section 64 of the Animal and Plant Control (Agricultural Protection and Other Purposes) Act 1986, recently passed, provides:

(1) A person shall, in taking measures for the destruction or control of animals or plants, take all steps to ensure—

(a) that no naive trees or shrubs are destroyed or unnecessarily damaged;

(b) that damage to or destruction of native vegetation (other than trees or shrubs) is kept to a minimum;.

The penalty for such is $2 000. Under fire control, local councils serve notices, as happened to me, to clear all undergrowth including native bush as well as some exotics. The penalty I would have to pay is a minimum of $2 000 or a maximum of $5 000. Yet, the concept is the same—it is native vegetation in among exotics and noxious weeds. They are telling me that I had to clear the lot—the native vegetation as well as the exotics—and that I did. The other conflict involves the hills face zone, where the penalties are different again. So, we have four Acts with different penalties for the same offence, namely, clearing or damaging native vegetation unnecessarily in the eyes of the law, or quite deliberately contravening the law. If a case ends up before a judge and somebody is challenged, they can make this place look a little foolish with the sorts of laws we have passed. We should make the penalties somewhere near uniform.

The Hon. D.J. Hopgood: The Country Fires Act overrides the Native Vegetation Act, anyway.

Mr S.G. EVANS: A man I know has 300 acres in the hills face zone or near hills and it is currently all native vegetation. If the council issues notice on him, as they did me, and he rotary slashed the whole of the undergrowth, he would be abiding by the Country Fires Act because the council takes no action against him. He is going deliberately against what we are trying to do to save native vegetation. We should be suggesting an adequate break around it, whether it be 100 metres or 50 metres on an area of that size. With the Country Fires Act overriding it we need to resolve that conflict.

My last point is that in our society some people, who do not look at money as a goal, sometimes find that it is difficult to retain a piece of land, either because of the bushfires legislation and the threat of having to clear the land or pay a penalty, or because they have a concern for their neighbour and know that if they clear the land other people will complain about the damage they do. The Minister may have made a public statement on this: if not, I hope he will make one and in so doing give credit to the White family at Carey Gully who I believe recently gave the department an area comprising about 18 hectares of native vegetation. To a State Government the amount is minute, but to that family money is not the major consideration. I admire them for the way they can do such things because I know that they are not rich. They gave the land to the State and I believe the Minister's department is now looking at fencing it. I am not asking him to make a statement tonight, but it would be nice if the Government made a statement at some time indicating that the gift by that family is appreciated and other people might do this also. I support the concept of the Bill and hope that the Minister will look at the penalty provision. I know the difficulties, but I believe they are ambiguous in some cases.

The Hon. D.J. HOPGOOD (Minister for Environment and Planning): I do not know whether we are going to have an adjournment debate this evening—it is in the hands of the Opposition—and if we do I welcome it. It seems that we have largely been having an adjournment debate for some hours. I can only say to you, Mr Speaker, and the other honourable member who occupied the Chair in that time, that I congratulate you for your tolerance in the matter. I would not want the debate to be stifled as for the most part it was very entertaining indeed. In relation to one or two final speeches made by members opposite, some important points were brought forward. The only quandary in which I find myself is that, since the vast majority of

the points made in the debate had nothing to do with the Bill before us, should I take up the time of the House in going through most of that material (to which I have listened avidly and stored away) and make a point by point refutation of what was said or congratulation, on the other hand, where I think appropriate.

I have decided reluctantly that I must restrain myself—that, if I am passing some judgment on the way in which other honourable members have chosen to interpret Standing Orders and the way they have addressed themselves to the Bill, it is hardly consistent for me to be going on in the same way. I therefore will steer very close to the boundary of the limitations I have just placed on myself in saying, in the first instance to the member for Davenport, that I thank him for the suggestion in relation to the family to which he referred. I believe that my officers are considering an appropriate way in which that gift and similar sorts of gifts can be recognised by the community as a whole and the elected representatives of that community in particular. I appreciate the way in which he has raised that point.

I also say to those members who have raised the whole question of compensation under the legislation that the Government is perfectly well aware that it has a statutory obligation in relation to these matters and it recognised as much not so very long ago when I was able to secure from Cabinet an extra $700 000 quite over and above anything we had budgeted for this financial year—a very tangible indication that the Government understands as a matter of policy that it is a statutory obligation that has to be met. I have gone beyond the bounds of the Bill in referring to such, but it was an important point made by members. One point made fervently by members was their congratulations of Mr Stephen Hains. He has chaired three committees with a great deal of distinction.

He has been a decision maker in a way that perhaps nobody else in South Australia has, if members consider the number of matters upon which he has had to adjudicate, particularly in so far as the South Australian Planning Commission and the Native Vegetation Authority are concerned. He has not been alone in the decisions, but nonetheless it is he who has guided those authorities.

I have previously outlined to the House my general attitude to the operations of those bodies, indicating how important it is that their decisions should be, on the one hand, free from direct ministerial influence, while on the other hand being generally influenced by policy which has been agreed upon through the normal mechanisms of the legislation in which the Minister, by virtue of the position he or she holds, must be pre-eminent. I commend the Bill to the House.

Bill read a second time.

In Committee.

Clauses 1 and 2 passed.

Clause 3—'Amendment of Coast Protection Act 1972.'

The Hon. JENNIFER CASHMORE: Could the Minister give the Committee a general idea of his approach to the chairmanship of the Coast Protection Board and then, in due course, in relation to the next clause, the Native Vegetation Authority? In replacing the Chairman of the Planning Commission with a board member who will be either the Director-General of the Department of Environment and Planning or his nominee, does the Minister believe that that person should necessarily or desirably be the Chairperson of the board? If not, what weight does the Minister give to the importance of a planning background for the person who is to chair this board? I assume that, if the Director-General does not sit on the board, he would substitute the Director of Planning rather than any other officer and, therefore, the planning background would be obvious and the second question need not apply.

The Hon. D.J. HOPGOOD: These matters have not been thoroughly resolved as yet, because to do so would be to presume as to the decision of the legislature in this matter, which might even be seen to be slightly improper. However, obviously we have made some overtures in various directions and really it will depend on who can be recruited, for example, to the categories under paragraph *(d)*. I think, for example, that the presiding officer would be someone with some considerable experience in dealing with local government, either by way of somebody who has been an elected member of or employed by local government, or alternatively a person who, by virtue of his or her position with either the State Government or private industry, has had extensive dealings with local government, because obviously local government will continue to play, as it should, an active role in these coast protection matters. I see that as being a reasonably important principle.

I also agree with the honourable member that it is important that planning, in the sense of the word that is understood under the Planning Act, should be strongly represented, although I do not see that it is absolutely essential that the presiding officer as such must have formal planning qualifications, just so long as at least one person on the board does represent that sort of expertise.

Clause passed.

Clause 4—'Amendment of Native Vegetation Management Act 1985.'

The Hon. JENNIFER CASHMORE: This question is identical, but it refers to the Native Vegetation Management Act. What weight does the Minister place on the desirability of the presiding officer of the Native Vegetation Authority being a person with planning background, notwithstanding his or her expertise in other fields, such as conservation, native vegetation or agriculture, etc.?

The Hon. D.J. HOPGOOD: The first and most important qualification that this individual must have (and in a minute I will come to the specific point made by the honourable member) is that he or she should have no obvious link with either, on the one hand, the Conservation Council or any of its affiliate bodies or, on the other hand, the United Farmers and Stockowners or any of its affiliate bodies. That is the most important qualification. The honourable member is aware that the whole area of this development control was once under the Planning Act by way of regulation and then, following a decision in the High Court, Parliament legislated for the Act which we are now amending by way of this Bill, so the concerns of the Native Vegetation Management Act, the authority and those who apply are a little separate now from the mainstream of land use planning.

I would have thought that in those circumstances it is perhaps not absolutely essential that the person who takes the chair should have formal planning qualifications in the sense that, for example, I as Minister had to recommend them in the 1970s under one of the sections in the Act, which I think was section 72. It is important that this person should have had some experience in land management or the administration of land management. I do not see that it is necessary that, if for example we are looking at a former bureaucrat or an existing bureaucrat, that person should have been employed in the environment and planning field, but he or she may have been an officer of the Department of Agriculture, the Department of Lands, the Engineering and Water Supply Department, or one of those areas where some expertise will have been developed, not only in administration and decision making, which obviously

the honourable member would agree is very important, but also simply in dealing with problems related to land and the administration of land.

I mentioned a bureaucrat, but it does not have to be a bureaucrat: it can be a person from private industry, or I suppose from one of the academic institutions. Members may be able to hazard one or two other guesses about the sorts of backgrounds, but that is the sort of experience at which we are looking. Again, I make the central point that, whoever is appointed, it must not be anyone who has affiliations with either the Conservation Council and its affiliate bodies or, alternatively, the UF&S and its affiliates.

Clause passed.

Title passed.

Bill read a third time and passed.

ABORIGINAL LANDS TRUST ACT

Adjourned debate on motion of the Hon. G.J. Crafter:

That pursuant to section 16 (1) of the Aboriginal Lands Trust Act 1966, block 1219, out of Hundreds (Copley), be vested in the Aboriginal Lands Trust; and that a message be sent to the Legislative Council transmitting the foregoing resolution and requesting its concurrence thereto.

(Continued from 24 March. Page 3537.)

The Hon. P.B. ARNOLD (Chaffey): The Opposition supports the motion for vesting the Nantawarrina lands within the Aboriginal Lands Trust. We are conscious of the fact that this move, which started back in 1976, resulted from funds being made available for the Nantawarrina lands to be purchased from moneys provided by the Federal Government, and the Nepabunna people have had the benefit of the lands for a considerable period. Red tape has bogged down the transfer of the freehold title to the Aboriginal Lands Trust, but we are pleased to see that that matter has been resolved.

I was somewhat fascinated by the comments in the Minister's explanation of the motion, which states:

Transfer of the land is in accordance with the long established policy of this Government to give Aboriginal communities the title and right to the land. The sooner the title to the land is transferred to them the sooner the Aboriginal community will benefit.

I make the point that the Labor Party has not an exclusive right to that thinking, and I was amused to see the way in which that statement was put. Concerning the Pitjanjatjara lands, possibly some of the leading Aboriginal land rights legislation in Australia was enacted by the Liberal Government in this State and we were negotiating with the Aborigines, following that legislation, with the object of treating Maralinga lands in exactly the same way as the Government is now treating the Nantawarrina lands. That was under the Aboriginal Lands Trust, but those proceedings were dropped by the present Government. However, eventually we finished up with the Maralinga lands legislation which achieved virtually the same ends. As soon as it has freehold title to the lands, the trust will vest the land back with the Nepabunna people. So, the Opposition fully supports this motion.

Motion carried.

STATUES AMENDMENT AND REPEAL (SENTENCING) BILL

Second reading.

The Hon. D.J. HOPGOOD (Minister of Emergency Services): I move:

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

This Bill, by and large, seeks to amend and repeal a number of Statutes and provisions in Statutes in consequence of the enactment of the Criminal Law (Sentencing) Bill, 1987.

General Amendments

The amendments to the Correctional Services Act are designed to pick up existing machinery provisions in the Offenders Probation Act. Amendments to the Justices Act are largely consequential upon the provisions in the Criminal Law (Sentencing) Bill regarding powers of courts with respect to imprisonment and the enforcement of fines.

The Offenders Probation Act and the Criminal Law (Enforcement of Fines) Act are repealed, their provisions being reproduced in the other Bill. The Criminal Law Consolidation Act is amended largely to repeal provisions dealing, also, with imprisonment and fines; moreover, the provisions regarding restitution and compensation are struck out as they are reproduced in the other Bill. The abolition of Corporal Punishment Act is consequentially amended.

Specific Amendment

The amendments to the Acts Interpretation Act are significant. Clause 4 enacts a standard scale of penalties (i.e. for imprisonment and fines) that will in future be utilised in the statute law of this State. Its genesis, or at least a modified form of it, is to be found in the Fourth Report ('The Substantive Criminal Law') of the Mitchell Committee (pp. 387-393). It concluded that:

. . . it does not seem to us to be necessary or efficient for every statutory offence to be the subject of a separately named maximum penalty. We therefore recommend a simplified approach based on penalty divisions. The use of a system of penalty divisions in our view incorporates no disadvantages compared with the traditional approach of naming penalties for each offence, and has the advantage of providing a means of varying monetary penalties to counter effects of inflation. Such a system also provides for ready comparison and adjustment of the maximum penalties attaching to particular offences.

It further observed:

This penalty structure seems to us to be readily comprehensible to the average person and to provide a means of adjusting the monetary value of fines to take into account. The effects of inflation. This would most conveniently be achieved by doubling the maximum fines periodically, and if inflation continues at a rate of approximately 15 per cent per year, the doubling would be necessary every five years. Clearly it would not be convenient to make adjustment annually by increasing maximum fines simply by adding to them the annual inflation rate. In our view, overall adjustment should not be made more frequently than every two or three years so that the public can be given adequate warning of the intended increases.

Quite clearly, life imprisonment will remain in a category of its own and be reserved only for the most serious offences.

The Parliamantary Council will, in future, make relevant and appropriate amendments to the penalty provisions of each existing Act of Parliament as and when required to prepare any Bill to amend it. The new standard scales will also be incorporated in new legislation as and when it is being prepared.

Section 77 of the Criminal Law Consolidation Act is to be repealed. This section deals with indeterminate sentences for offenders who suffer from venereal disease. The repeal of this provision goes some way towards the Mitchell Committee's 1973 recommendation (First Report: 'Sentencing

and Corrections pp. 12-13) that, except in the case of life imprisonment, indeterminate sentences should not be used at all. The powers under section 77 do not appear to have been used for many years and are anachronostic in these modern times.

Finally, an amendment to the Justices Act is designed to ensure that, where a person appeals to the Supreme Court against conviction and a sentence of imprisonment and is allowed out on bail pending the determination of the appeal, time does not continue to run while the person is at large. In this respect the amendment is in terms that will have an identical effect to the provisions of s. 364 (3) of the Criminal Law Consolidation Act, which deal with the situation insofar as it applies in the Supreme Court.

Clause 1 is formal.

Clause 2 provides for commencement on proclamation.

Clause 3 is formal.

Clause 4 inserts a new provision in the Acts Interpretation Act setting out a scale of penalties that will apply in the future in new Acts or as old Acts are amended, except where an extraordinary penalty is required for some special reason. The highest division, division 1, is a penalty of 15 years imprisonment and a fine of $60 000. The lowest, division 12, is a fine of $50. The definition does not require that imprisonment of a particular division must necessarily be accompanied by a fine of the same division. For example, a regulatory offence may well require a fine of a high division but imprisonment (if any) of a low division. The amounts are of course maxima, unless a contrary intention is indicated in a special Act.

Clause 5 repeals a section of the Acts Interpretation Act that will be redundant on the abolition of hard labour.

Clause 6 is a consequential amendment.

Clause 7 amends the Abolition of Corporal Punishment Act by inserting a reference to the use of the pillory, in consequence of the repeal of section 309 of the Criminal Law Consolidation Act.

The next eight clauses relate to the Correctional Services Act 1982.

Clause 8 is formal.

Clause 9 provides that the Minister's and the Permanent Head's power to delegate relates to functions performed under other Acts as well as the Correctional Services Act. Both have various functions to perform under the Criminal Law (Sentencing) Act.

Clause 10 inserts two new Divisions, dealing firstly with the setting up of the community service advisory committee and regional community service committees, and secondly, with the establishment of probation hostels. These provisions are essentially the same as the corresponding provisions in the Offenders Probation Act which is to be repealed.

Clause 11 repeals the section dealing with the commencement of sentences of imprisonment—this now appears in the Sentencing Act.

Clauses 12 and 13 are consequential amendments.

Clause 14 repeals the provisions dealing with the fixing of non-parole periods—these now appear in the Sentencing Act.

Clause 15 inserts an immunity provision currently contained in the Offenders Probation Act.

The next 13 clauses relate to the Criminal Law Consolidation Act.

Clause 16 is formal.

Clause 17 repeals the section dealing with indeterminate sentences for convicted defendants with venereal disease.

Clauses 18 and 19 repeal provisions dealing with restitution of property.

Clause 20 repeals a compensation provision that is now covered by the Sentencing Bill.

Clause 21 repeals provisions dealing with costs and compensation that are also covered by the Sentencing Bill.

Clauses 22 and 23 repeal provisions dealing with the enforcement of fines and recognizances and other general sentencing powers. These matters are all dealt with in the Sentencing Bill.

Clauses 24 and 25 repeal provisions dealing with the police supervision of repeated offenders. These powers are no longer used or required.

Clause 26 is a consequential amendment.

Clause 27 provides that the Commissioner of Police, as well as an inspector, has the power to issue search warrants for certain promises believed to be housing stolen goods.

The next 28 clauses amend the Justices Act. The majority of these clauses delete provisions dealing with the enforcement of fines and other sentencing powers, all matters now covered by the Sentencing Bill, and for this reason do not require detailed explanation.

Clause 53 effects a substantive amendment. It provided that a defendant who is out on bail pending an appeal against conviction or sentence is not to be held to be serving his or her sentence of imprisonment during that period of bail.

Clause 56 repeals the section of the Local and District Criminal Courts Act that deals with habitual criminals.

Clause 57 repeals the Criminal Law (Enforcement of Fines) Act 1987.

Clause 58 repeals the Offenders Probation Act 1913.

Clause 59 provides several necessary transitional provisions. Recognizances entered into under any of the repealed or amended Acts are to be dealt with as if they were bonds entered into under the Criminal Law (Sentencing) Act. The repeal of the provisions that provide for indeterminate sentences will not affect the validity of any such sentence currently being served, or to be served, by prisoner.

Mr MEIER (Goyder): As members would be aware, this Bill can be taken in conjunction with the Criminal Law (Sentencing) Bill, which is next on the Notice Paper and with which I dare say we will also deal this evening. The Bill before members amends the Acts Interpretation Act, the Corporal Punishment Abolition Act, the Correctional Services Act, the Criminal Law Consolidation Act, the Justices Act, and the Local and District Criminal Courts Act. The Bill also repeals the Criminal Law (Enforcement of Fines) Act and the Offenders Probation Act.

Most of the discussion of the Bill will take place in Committee and I shall make some points then, but I shall canvass certain aspects on second reading. The Government intends to introduce a scale of fines and periods of imprisonment and to classify these in divisions. Such penalties can then be adjusted periodically without having to amend each specific Act of Parliament under which a penalty is imposed.

The Government also intends to amend progressively legislation on the statute books to accommodate the increased penalties and it is interesting to consider at this stage the range of those divisions of penalties. The highest level of penalty is division 1, which can mean a term of imprisonment not exceeding 15 years or a fine not exceeding $60 000. Progressing through the divisions, we find that by division 6 the term of imprisonment shall not exceed a year nor the fine $4 000. Division 8 prescribes imprisonment for a term not exceeding three months or a fine not exceeding $1 000.

Those who fear imprisonment may rest easily after division 8, because no term of imprisonment is included in

divisions 9 to 12; only a fine is prescribed, the lowest fine, not exceeding $50, being prescribed in division 12. Some statutes will not refer to the divisions of penalties. In this Bill, because they far exceed the penalties prescribed for certain offences such as trafficking under the Controlled Substances Act, these will not be affected. There are other examples in relation to these classes that come out under this Bill, but I shall not refer to the specific Act in each case.

I am pleased to see that, as this Bill comes from the Legislative Council, the advisory committee shall comprise not fewer than three nor more than five members appointed appointed by the Minister, of whom one must be a person nominated by the permanent head. When this Bill was before the other place, there was a specification that one member would be appointed by the Minister after consultation with the United Trades and Labor Council. I am pleased that the Bill comes to us in this form, because it seemed that there was no reason to identify a specific group such as the UTLC, against whom I do not have anything, but we could have identified other groups, whether employer groups or whatever. I trust that the Goverment acknowledges that this legislation will be much better in essence now that this amendment has been made in another place to tidy it up in several places in that respect.

Clause 20 repeals section 297 (5) of the Criminal Law Consolidation Act. This section gives the court the power to order to a widow of a man killed while endeavouring to apprehend any person charged with a felony or misdemeanor, such sum of money as the court in its discretion thinks fit. Such payments can also be made to a child or children or, in certain circumstances, to father or mother. This subsection is to be repealed, and one wonders why the Government is endeavouring to go along this line, because we have seen many cases, from time to time, where people seem to be left out in the cold, so to speak, when a tragedy has beset a member of the family who has been endeavouring to help society generally by trying to apprehend a person. I would be interested to hear what the Minister has to say as to where it might be catered for in some other legislation, because I do not believe that it is adequately covered, although, I believe it should be covered appropriately.

Clause 17 of this Bill repeals section 77 of the Criminal Law Consolidation Act, which deals with persons convicted of offences such as rape, unlawful sexual intercourse with a person under the age of 12 years, indecent assault, and a variety of other sexual offences. It provides that where that person is suspected of suffering from a venereal disease the court can direct that the prisoner be examined and, if veneral disease is established then after expiration of the term of imprisonment the person can be detained during Her Majesty's pleasure until he no longer suffers from that venereal disease.

I suppose, that to some extent, we must acknowledge that it is not only criminal offenders who could be infecting other people, and the whole issue arises of why, if a person has served his sentence, should he be detained longer at the request of Her Majesty because he may infect someone else. I also suppose that, with our modern drugs, there is every likelihood that the particular venereal disease will have been corrected by the time of release. From that point of view, I suppose, we do not have to take great objection.

However, let us consider the situation of a person who may be suffering from AIDS, or perhaps a venereal disease that is extremely dangerous. It would seem to me that the current law does not adequately address the issue of those persons who commit offences deliberately to infect others with one or other of those diseases, be it AIDS or something else. It has been drawn to my attention that there have been cases in the United Kingdom and the United States of America, where, in particular, an AIDS sufferer deliberately committed rape on as many occasions as possible with the express intention of pulling down as many other people with the disease as he possibly could before he died.

An honourable member interjecting:

Mr MEIER: Indeed, taking revenge on society. I suppose the Minister will argue that this is a slightly different situation; we are not particularly dealing with AIDS here. In fact, I do not know whether there is legislation to cover such cases and I think that we need to give further consideration to this and to ensuring that the law deals adequately with an appropriate penalty imposed upon that sort of person. To shrug this matter off and say, 'Come on, don't get too carried away', is, unfortunately, unrealistic because the plague of AIDS is definitely with us. Surely our role as legislators should be to protect society and, if nececary, to take strong action to do just that. I am not suggesting here that perhaps the original intention that has been done away with by the amendment should be reintroduced, but I hope that the Minister may be able to make some comment as to how he thinks the Government will address this problem given that an aspect of that has been withdrawn through this Bill.

I am pleased to see the amendment regarding section 77a, which deals with the detention of persons incapable of controlling their sexual instincts. It has been argued that the court already has a variety of means available to it to extend sentences. However, I have serious reservations about any suggestions to repeal this section, because there are not always adequate provisions to ensure that a dangerous person is kept in secure facilities in order to protect the community. It is pleasing to see the reference to section 77a continues in this Bill.

I know that there has been a debate on whether a similar clause could be inserted into the Criminal Law (Sentencing) Bill, and perhaps we might hear more about that when that Bill is debated a little later. Let us be quite clear that the clause provides that the courts are not to make the determination; it is in the hands of the Government. I think that is the way it should stay, because it is very easy for the members of any Government of the day to shrug their shoulders and say, 'We are not responsible: blame the courts.' At a time when we are seeing more and more community concern about the lack of proper sentencing and the lack of law and order within our society, we as legislators should be doing everything possible to ensure that the courts are not given the latitude they might want. We could have a case in which a court would shrug its shoulders and not be accountable when people object, whereas pressure could be brought to bear on the Government of the day much more easily. We only need to think of the recent New South Wales election to realise that law and order is a very important issue. This Government will take into account the swing that was seen in that State, and I am pleased that this amended Bill does not seek to repeal section 77a.

Clause 23 deals with habitual criminals. The Government seeks to repeal sections 301 to 314, arguing that the Mitchell committee recommended repeal. We acknowledge that many of the aspects in this Bill have been brought forward as a result of recommendations of the Mitchell committee. I do not think anyone would disagree that that committee made the recommendations. The repeal of sections 301 to 314 is one such recommendation. However, I believe that it is a matter of the court having the power to declare a person an habitual criminal and then having the power to protect

the community by more extensive orders than would otherwise be available to it, and that is something we need to further consider in this House. The fact is that, if a person commits an offence and is convicted without being declared an habitual criminal, the court has no power to protect the public other than to say, 'You are in for a particular period. Once you have served that sentence, you are out, even though you will be a danger to the public.' That certainly would have to be a worry to any law abiding citizen, because we realise that our rehabilitation processes are far from perfect.

That does not detract from the question why we should let out people who are habitual criminals if there is every indication that they will offend again. I will not draw attention to specific examples, but we can think of some. In fact, only this very day, the Deputy Premier in his capacity as Minister of Emergency Services moved that there be an increase in the reward money for cases that have been under investigation for a long period of time. That again shows quite clearly that the Government recognises the problem, but the question before this Parliament is: will the Government take any positive action? If this provision is deleted there is clear evidence that the Government is not taking the appropriate action, that people in our society are not being protected, and surely that is something that this Parliament must correct. Why should we have to continue to increase reward rates to achieve the apprehension of a person, especially where a person might have been an habitual criminal for a long period of time? Let us make sure that we do not take away that right as this Bill proposes.

I have already indicated that I am pleased that certain provisions have been included in the Bill that were not provided originally. I have referred to some of them and I will make a few more comments in Committee. As I indicated earlier, this Bill amends many Acts and I realise that the Minister may be able to point out to me that some of the amendments will be incorporated in other Acts. That is fine. I will be interested to listen to that, weigh up matters and ascertain whether those situations are still appropriately catered. Whatever the case, it seems as though this involves some tidying up of the legislation.

I refer again to the division fines. The Opposition does not have any objections to that aspect, but I wonder whether we have tried too hard to key everyone into a particular slot, in the process taking away some of the discretion that existed in earlier years. I would hope that that is not the case but, when we see things nicely tabulated, we can almost imagine the situation in the court when a judge might be determining which division fine or which division imprisonment should be imposed. Possibly the Minister might want to make a few more comments about how well he expects the new divisional fines to work, and whether he sees any problems whereby people could become so institutionalised or slotted into boxes that the system could become a little rote with the seriousness of the offence being overlooked from the point of view that the judge has before him a clear option regarding the extent of the fine and says, 'If you do that, too bad; here are the consequences.'

I realise that is necessary, but let us make sure that the rehabilitation processes are brought in and that if it is felt that a person could be rehabilitated much faster than others, these scales of fines and imprisonment will not be a deterrent. Nevertheless, the Opposition supports the Bill overall, although it does have some reservations in relation to those clauses to which I have referred.

The Hon. G.J. CRAFTER (Minister of Education): I thank the Opposition for the indication of support for this measure which has been the subject of substantial debate and some amendment in another place. So it comes to this House in that form. Indeed, it is somewhat difficult to answer the questions that the member for Goyder has raised without referring to the accompanying measure with which we will deal after this Bill, that is, the Criminal Law (Sentencing) Bill, because that is the substantive Bill and it is unfortunate in a way that these Bills have come into this House in this order.

The Criminal Law (Sentencing) Bill answers many of the issues that the honourable member has raised. It is an important statute, because it brings together the sentencing provisions which can be found scattered throughout the statute book in the Criminal Law Consolidation Act, the Offenders Probation Act, the Justices Act, the Correctional Services Act, the Criminal Law (Enforcement of Fines) Act, the Local and District Criminal Courts Act and so on. So, we now have these two pieces of legislation which will bring together the sentencing provisions and clarify them for all those whose responsibility it is to administer the criminal law and to interpret it and, indeed, for the benefit of the community.

There is considerable focus in our community on the sentencing process. Indeed, some would argue that too much emphasis is placed on the sentencing of offenders in the criminal justice process. I think it is important to look at the fundamental elements that a court takes into account in the sentencing process. First, it must take into account the punitive nature of a sentence: obviously it is intended to punish an offender. Secondly, it is intended to be a deterrent to discourage other persons in the community from similarly offending. That is an element on which many people place great emphasis. Thirdly, it must have a rehabilitative effect: the sentence must be designed in such a way that it will give an opportunity for the offender to mend his ways and once again take his or her place in society as responsible citizens. Finally, there must be an element of reparation to the community involved in that sentence.

They are the traditional elements that are taken into account in the sentencing process in our courts as has occurred from the inception of the law in the colony of South Australia and subsequently this State. In the main I think that all members would agree that our courts have served our society well, but we must never believe that we cannot improve and amend our legislation in order to provide for the more efficient and up-to-date administration of our criminal courts and the criminal justice system and also to be continually looking to expand the range of sentencing options that our courts have at their disposal. Indeed, this Bill that is before us does that.

It is interesting that the basis for a number of the amendments in this Bill and the following Bill have arisen from recommendations of the Mitchell committee, which was a very influential committee that undertook four major reports into the reform of the criminal law in the early 1970s in this State. There are references to the recommendations of the Mitchell committee in the second reading explanation.

Thus the reforms are a result of a very substantial review of the law and reflection upon it over many years. Whilst the honourable member raises a number of issues of doubt, I guess that is natural when one changes the criminal law and particularly the sentencing elements of it which are well entrenched in our society. The question of divisional fines was raised by the honourable member. That is a novel approach (if I could use that word) but it is not a matter that has not been thought through or been the subject of considerable deliberation. I can only commend that reform

to members as entirely appropriate in the modern day administration of criminal justice. So it is with the many other reforms that are proposed here.

As the honourable member said, we are repealing a number of very outdated provisions in the law and, indeed, they embody philosophies which our society no longer embodies, such as that we should retain incarcerated in our correctional institutions persons who have contracted illnesses. That people should remain incarcerated for indeterminate sentences because they are suffering from an illness, however it was contracted, is simply an outdated philosophy. Nowadays there are institutions in our society which care and provide for those people without their having to remain in a correctional institution, which is viewed by many people, by the great majority of people, entirely inappropriate these days. So, it is with that philosophy and approach that there has been this very substantial review of the various statutes that provide the powers of sentencing in our courts. I commend these reforming Bills to members.

Bill read a second time.

In Committee.

Clause 1 passed.

Progress reported; Committee to sit again.

The Hon. G.J. CRAFTER (Minister of Education): I move:

That the time for moving the adjournment of the House be extended beyond 10 p.m.

Motion carried.

CRIMINAL LAW (SENTENCING) BILL

Second reading.

The Hon. G.J. CRAFTER (Minister of Education): I move:

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

The broad aims of this very important Bill are threefold. It seeks to consolidate nearly all the existing statutory measures, dealing with the sentencing options available to the courts of this State, into one item of legislation. They are presently to be found scattered throughout the statute books in such diverse enactments as the Criminal Law Consolidation Act 1935, the Offenders Probation Act 1913, the Justices Act 1921, the Correctional Services Act 1982, the Criminal Law (Enforcement of Fines) Act 1987 and the Local and District Criminal Courts Act 1926. Remarks in the Federal context, by the Australian Law Reform Commission, have direct relevance to the situation in South Australia:

> There is a need to simplify and to consolidate into one .... Statute all general sentencing provisions ... At present [ready] access is possible only through the acquisition and use of a detailed knowledge of the criminal law, and following reference to an array of statutory and common law authorities scattered in many places. Such a restricted and cumbersome process does not accord with the principle that the law, and particularly the law relating to crime and punishment, should be clear, precise and widely available and known.
> (*report No. 15*: para. 397)

Secondly, it seeks to ensure, as far as practicable, that all available sentencing options can be utilised by *all* the courts of this State that exercise criminal jurisdiction with the exception of the Children's Court, which is not to be covered by the provisions of this Bill.

Thirdly, the Bill seeks to introduce a number of reforms, with particular reference to the powers of the courts of the State in relation to imprisonment, fines and community service orders.

The Bill was prepared against a background of a number of developments, in recent years, at the theoretical and practical levels both in this and in other jurisdictions.

Thus, a number of recommendations of the (1973) First Report of the Criminal Law and Penal Methods Reform Committee of South Australia ('the Mitchell Committee') are to be implemented. In 1980 the Australian Law Reform Commission published its Report No. 15 on 'Sentencing of Federal Offenders'. The Victorian Parliament enacted the Penalties and Sentences Acts of 1981 and 1985 which substantially rationalise the relevant law in that State; and in New Zealand similar legislative consolidation and rationalisation were undertaken in 1985.

Locally, a number of studies of the Research and Planning Unit of the Department of Correctional Services have highlighted concerns in the administration of sentencing options, particularly in relation to the use of imprisonment for persons who are in default of payment of fines. Those studies followed close on the heels of similar detailed research in Tasmania.

In addition, there is the overriding interest of this Government to ensure that the prisons of the State are reserved for real malefactors and the perpetrators of the more serious crimes. The Government and in particular the Department of Correctional Services is (and has been for a not inconsiderable period of time) confronted by the burgeoning problem of overcrowding in correctional institutions occasioned and exacerbated by the presence of offenders who ought not to have been there in the first instance.

Therefore, many of the reformative measures in this Bill are directed specifically towards redressing such injustices and imbalances.

I now turn to a discussion of the import of each of the more substantial provisions of the Bill.

Imprisonment

Clause 11 finds its philosophical rationale in the A.L.R.C.'s Report on Sentencing. This type of provision is designed to ensure that the sentencing court's discretion is in all cases clearly directed and articulated. It will ensure non-custodial sentencing options are given due and proper consideration with a view to utilising de-institutionalised modes of punishment. It makes it abundantly clear that, imprisonment is generally a punishment which is to be used only where, in all the circumstances of a particular case, it is the most suitable and appropriate form of punishment. This will be assured by Clause 11 being read in conjunction with the rest of the Bill where there is provision for a wide range of non-custodial options.

Fines

Clause 13 requires courts to have regard to a defendant's means to pay when determining whether or not to impose a fine and, if it is imposed, the manner in which it is to be paid by the defendant.

One writer has made several observations on the situation in New South Wales which are, on close reflection, particularly opposite to that which obtains in this State:

> The fine is the most frequently used sentencing alternative. Historically, fines have become the 20th century substitute for imprisonment. The attractions are that fines are:
> - flexible, given they can be adjusted according to both the severity of the offence and the financial circumstances of the offender;
> - economically attractive, given their low administrative costs and revenue producing functions;

- considered to be no less 'penologically effective' than other sentencing options; and
- considered preferable to custodial sentences on both economic and humanitarian grounds.

Problems are also apparent. A considerable number of defendants end up in prison in default of payment; there are administrative and financial costs associated with enforcement mechanisms; there are jurisdictional variations in enforcement practices and in the period of imprisonment to be served in default of payment; there are variations in the amounts of fine able to be imposed for different offences which appear to bear no uniform or principle relationship to the nature or the severity of the offences in question; and there are strong grounds for questioning the suitability of fines, or at least the predominant use of fines, for certain types of offenders at both ends of the financial spectrum (for example social security offenders and corporate offenders). (See *Zdenkowski* Legal Service Bulletin (1985) Vol. 10 p. 102).

In terms of elementary notions of justice, a $2 000 fine will have a considerably greater specific deterrent effect (and concomitant hardship) on an offender who earns $200 per week than it will on an offender who has committed the same offence and who earns $1 000 per week. And of course, in the former case the effect on the offender's dependants will be vastly greater especially if they are not earning any income additional to that of the offender.

In a leading text book by Thomas on the 'Principles of Sentencing' it is observed in relation to the question of an offender's means:

> It is considered incorrect to impose a fine which is beyond the offender's ability to pay, as this is likely to result either in his serving a sentence of imprisonment in default, or possibly committing further offences to raise the money.

The Bill before you does not empower the courts to reduce or increase a fine according to the defendant's means; the severity and circumstances of the offence must remain the principal yardstick. However, having determined what would be an appropriate fine, the courts must then look at the evidence placed before it (if any) as to the defendant's means and the probable effect a fine would have on his or her family. If it then appears that the defendant could not pay the fine or the family's welfare would be prejudiced by payment of the fine, the court must find an alternative sentence.

Community Service

Presently, community service orders are made only ancillary to a bond. This Bill empowers the courts to order a defendant to perform community service as a sentence in its own right as well as by way of a condition of a bond. Clause 18 also sets out the place of community service, as a sentence in its own right, where a special Act already prescribes various forms of punishment and the court thinks it is appropriate to sentence the defendant in some other way. It is the Government's intention that community service orders will become more generally available as a direct alternative to the powers of courts to impose fines where the latter simply cannot be discharged by virtue of the impecuniosity of offenders.

Victims

The Government's ongoing commitment to the improvement of the lot of victims of crime is accorded further recognition in this Bill. One of the matters to which a sentencing court is to have regard is the nature and extent of injury, loss or damage resulting from the offence (Clause 10). Preference is to be given to compensation to victims, over the imposition of a fine, where a defendant simply cannot afford to pay both (Clause 14). A court may also order, as a condition of a bond, that the defendant make reparation, restitution or compensation to a victim of the offence (Clause 33). This is a new provision in the law of this State and is intended to focus the attention of the courts on the position of victims so that their plight is not ignored in the quest for deterrence or rehabilitation of the offender.

Variation of Manner of Payment of Moneys

Clauses 26, 45, 46 and 50 are wholly new provisions. They respectively enable a defendant who has been fined or ordered to pay compensation, costs (in a court of summary jurisdiction) or a sum of money pursuant to a bond to apply to the appropriate officer of the court for an order varying the time or manner of payment of the fine or other pecuniary sum. Where real hardship is being experienced, these provisions should ensure that the genuine defaulter, or potential defaulter, can obtain some degree of necessary relief.

Enforcement Procedures

Part IX of the Bill simplifies the enforcement procedures in relation to each of the heads of sentence open to the courts. However, the laws relating to contempt of court are not affected.

Whether enforcement is in relation to a bond, a pecuniary sum (which includes fines, compensation orders, costs or the victims levy) community service orders and other orders, the powers of the courts are clearly spelt out.

The power of courts to enforce orders by sale of a defendant's land is also extended. Presently, that power is only available in relation to indictable offences. It is now also to be available in respect of the most serious summary offences where the pecuniary sum, or the aggregate of a number of pecuniary sums exceeds $10 000. Hard labour is to be formally abolished as a concomitant of a sentence of imprisonment as it is now, for practical purposes, defunct. Work in prisons is wholly regulated by the provisions of, and Regulations under, the Correctional Services Act 1982. Hard labour was abolished under British law in 1948.

Remaining Provisions

Nearly all the remaining provisions of this Bill either merely restate relevant areas of the common law or reproduce verbatim statutory provisions that are to be repealed by the accompanying Statutes Amendment and Repeal (Sentencing) Bill 1987.

Conclusions

In preparing this Bill the Government has been most concerned to ensure that a proper balance is struck between competing and often contradictory societal and individual interests and concerns. On the one hand there is the community's concern to see itself protected from those who insist on perpetrating serious crimes. There is the community's interest to ensure that certain anti-social behaviour continues to be the object of opprobrium and appropriate punishment.

There is also society's belief that many offenders are worthy of attempts to rehabilitate them not because a blind eye is turned to their criminal conduct, but because a clear sighted eye is not turned away from their essentially good character, antecedents, economic circumstances or whatever. That is why there should be an appropriate range of non-custodial options such as fines, bonds, community service orders and the like. There is also the victim's need for protection and informed participation in the processes that culminate in sentencing. That is why a priority is accorded to dispositions for restitution and compensation for loss or injury suffered.

These broad considerations can be mustered in favour of this Government's preferred approach to imprisonment generally and imprisonment, for default in payment of fines, in particular. Too often, cases arise under the present law which can give cause for disquiet. There is a belief, for example, that the law may only be incarcerating an offender for his or her poverty, his or her lack of means.

There is a strong moral justification for many of the reforms sought by this Bill; as one commentator has noted:

> The sanctions available to the law are only effective to the extent that they operate within a set of shared definitions of appropriate and inappropriate behaviour in the specific community within which it operates. The law should not be merely a reflection of public opinion in a particular community for it then would fail to fulfil its essential conservative function of linking past values to present concerns. On the other hand, if the values imbedded in law are antithetical to present needs, the law loses its moral force. While one cannot expect the law to be identical to social mores at a given time, one can demand that it be able to coexist with them.
>
> (See 'Studies on Sentencing' Law Reform Commission of Canada (1974) p. 39).

This Bill, by seeking to rationalise, reform, and unify the law on sentencing in this State should go a long way towards meeting both the moral and legal justifications for its introduction.

In a recent article one British Member of Parliament, in my view quite properly, pointed out the growing (if not imminent) crisis in the prisons of England and concluded:

> ... considerations other than the efficacy of imprisonment in the prevention of crime may reasonably be invoked in support of the reduction of the prison population. In these circumstances, it is relevant to look at the final cost to the taxpayer of imprisonment as opposed to alternative penalties. It is also reasonable to consider such matters as whether or not society's purposes would be better served by giving greater emphasis to reparation for injury to an individual or the community in its sentencing policy.
>
> (MacLennan: April 1986 *Contemporary Review* pp. 198-204)

Moreover, research has clearly demonstrated that flexibility is the key to ensuring pecuniary sums are paid by that minority of offenders who currently do not pay them as a matter of course. Setting realistic fines and requiring them to be paid immediately, or in such a way as to emphasize their punitive function, are crucial to the fine's success. To back them with a range of flexible default options also ensures the use of fines is fair and just.

In conclusion, honourable members should note that this Bill has been the subject of exhaustive consideration and comment by the Judiciary at all levels, the Law Society, the Legal Services Commission, Prosecutors, the Police, defence lawyers and affected or interested Government Departments.

Clauses 1 and 2 are formal.

Clause 3 provides essential definitions. The definition of 'court' excludes the Children's Court, as the Bill does not impinge upon the sentencing code provided for juvenile offenders by the Children's Protection and Young Offenders Act. The definition of 'pecuniary sum' includes a reference to a Criminal Injuries Compensation Fund levy, payment of which is to be enforced as if it were a fine. The definition of 'prescribed unit' relates to the enforcement of fines, etc. Where non-payment of a fine results in imprisonment, the fine will be 'worked off' at the rate of $50 per day. If the offender works the fine off by performing community service, the fine is reduced at the rate of $100 for each day (eight hours) of community service. The definition allows for the impact of inflation by contemplating that these amounts can be altered by regulation. Subclause (2) provides that a person is found guilty if he or she pleads guilty. Subclause (3) provides that a Criminal Injuries Compensation Fund levy is deemed to have been imposed by the court that found the person liable to pay it guilty of the offence in respect of which it is payable.

Clause 4 makes it clear that the sentencing powers given to a court by this Bill are additional to any other powers it may have under other Act or law, except where the Bill expressly provides otherwise (e.g., as it does in relation to bonds).

Clause 5 provides that powers of a court to punish a person for contempt of court are not affected by the Bill.

Part II contains provisions that deal with general sentencing powers.

Clause 6 provides that in determining sentence, the court is not bound by the rules of evidence.

Clause 7 places an obligation on prosecutors to furnish the court with particulars of victims' injury, loss or damage if those particulars are not in a pre-sentence report or in other evidence before the court.

Clause 8 empowers a court to order pre-sentence reports, both medical and social, and indicates that reports should not (but can, if appropriate) be ordered if it would cause unreasonable delay or if the sentence is a mandatory one. Reports can be oral or written. Both parties must be given copies of any written report and a person giving a report is liable to examination or cross-examination on its contents. Disputed facts must be substantiated on oath if the court is to have regard to them in fixing sentence.

Clause 9 requires a court to give its reasons for imposing a particular sentence if the defendant is present in court, and must also explain the effect of the sentence.

Clause 10 sets out a comprehensive (but not exclusive) list of the matters that a court should have regard to in fixing sentence, but only if those matters are known to the court and are relevant. Punishment, deterrence, rehabilitation and protection of the community are all included. The court has also to look at such factors as the circumstances of the offence and the offender's behaviour since committing the offence.

Clause 11 gives a direction to courts that imprisonment is to be regarded as a punishment that is to be imposed only for 'serious' crimes, for persons who repeatedly offend or for persons who have violent tendencies. This stricture does not apply where imprisonment is for non-payment of fines, etc.

Clause 12 provides that a court must have regard to the remission that a prisoner can earn, when fixing the length of a prison term or a non-parole period.

Clause 13 directs that a court must not require a defendant to pay a fine or other pecuniary sum if the court is aware that the defendant could not pay the fine, or if payment of the fine would cause undue financial hardship for his or her dependants. This stricture does not oblige a court to carry out an inquiry into a defendant's means.

Clause 14 provides that preference is to be given to making an order for compensation to victims of crime where the offender cannot afford to pay both a fine (or other pecuniary sum) and compensation.

Clause 15 provides for trifling offences—the court may dismiss a charge (without any conviction being recorded), or may record a conviction but impose no actual penalty. This enables a court to go below a minimum penalty (except of course where the particular Act that creates the offence or sets out the penalty expressly forbids a court to do so).

Clause 16 provides a new power for a court to impose a fine without recording a conviction, thus providing for immediate punishment without the long-term prejudice (particularly in the job market) of having a conviction against one's name. This power may only be exercised where a court believes that the person is not likely to commit the offence again and the offence was trifling or there was some other extenuating circumstance.

Clause 17 gives a court a general power to impose a penalty that is lower than a specified minimum, if the court thinks it appropriate in view of the offender's background, character, age or health, the trifling nature of the offence or other extenuating circumstances.

Clause 18 is the provision that gives a court the very necessary flexibility in sentencing an offender. Fines or community service may be substituted for imprisonment, and community service may be substituted for fines. Community service can be added to a fine, but not to imprisonment. These powers may be exercised notwithstanding the penalties provided by any particular Act, but of course imprisonment can only be imposed if the special Act so provides.

Clause 19 repeats the limitations on the sentencing powers of courts of summary jurisdiction that currently appear in the Justices Act. Only a magistrate can sentence a person to imprisonment for a term longer than seven days. A court of summary jurisdiction cannot impose a sentence for a minor indictable offence beyond the Division 5 limits.

Clause 20 provides that the mandatory sentence of life imprisonment for murder and treason is not affected, and that any special Act may expressly prohibit the exercise of any of the powers in the preceding clauses.

Part III contains special provisions for the sentence of imprisonment.

Clause 21 sets out the obligation on a court to specify the date or time at which a sentence is to commence or, if back-dated, is to be deemed to have commenced. Where a court has a power to impose a sentence of imprisonment *ex parte*, the sentence will commence when the defendant is taken into custody for the offence or, if already subject to some other sentence of imprisonment, at such other time as the court directs. Similarly, the court must specify the commencement of non-parole periods. Where a sentence of imprisonment is back-dated, any non-parole period fixed in respect of that sentence is similarly back-dated. If a court fails to give directions as to the commencement of a sentence, the sentence will be deemed to commence in accordance with the provisions of subclause (6).

Clause 22 gives all courts the power to make any number of sentences of imprisonment cumulative. Offenders sentenced to imprisonment for another offence committed while out on parole or while back in prison for breach of parole conditions will serve that sentence cumulatively upon the existing term or terms.

Clause 23 provides for the fixing and extending of non-parole periods for sentences of imprisonment that alone, or in aggregate, are for one year or more. This provision is virtually identical to the non-parole provision currently appearing in the Correctional Services Act.

Part IV contains special provisions relating to fines.

Clause 24 directs a court, when determining how a fine is to be paid, to look at the effect of the fine on the defendant's family and on his or her ability to pay compensation, if ordered. Fines may be paid in instalments if the court so orders. A court is not obliged to inquire into a defendant's means.

Clause 25 provides certain limits on the amount of a fine that may be imposed by a court where the special Act does not provide a fine as the penalty for the offence in question. If the fine is being substituted for a sentence of imprisonment expressed in years (i.e. under the current system), then the Supreme Court can go up to a Division 1 fine, a District Court can only go up to a Division 3 fine, and a court of summary jurisdiction can only go up to a Divison 5 fine.

Clause 26 provides that a defendant can apply for a variation in the time or manner in which a fine is to be paid. Such an application will be dealt with by the sheriff clerks of court.

Part V deals with bonds.

Clause 27 limits the power of courts to impose bonds—only a bond under this Part may be imposed in respect of offences.

Clause 28 makes it clear that a bond can be substituted for any other sentence, notwithstanding that a minimum penalty is prescribed by the special Act. However, bonds are not available in the case of murder or treason or where a special Act expressly prohibits any mitigation of penalty.

Clause 29 is a repeat of the present Offenders Probation Act provision for the suspension of a sentence of imprisonment on condition of the defendant entering into a bond.

Clause 30 provides that any court may refrain from imposing a penalty on a defendant (whether or not the offence carries a penalty of imprisonment) on condition that the defendant enter into a bond with or without a conviction being recorded. If the defendant complies with the bond conditions throughout the term of the bond, no conviction will be recorded and no penalty will be imposed and, unless already convicted no conviction will be recorded. A court may exercise the powers under this section wherever it considers it appropriate to do so.

Clause 31 provides that a bond may be for any term not exceeding three years.

Clause 32 provides that a bond may contain a provision that requires the probationer to pay a sum of money if he or she breaches the bond at any time. Guarantors of this obligation may be required. A defendant may also be required to find persons willing to 'guarantee' his or her compliance with the conditions of the bond.

Clause 33 sets out all the conditions that may be included in a bond. The usual conditions relating to supervision, residence, community service, medical treatment and abstinence from drugs or alcohol are provided for. A new condition relating to the restoration of stolen property and the payment of compensation to victims is provided for. Any other condition that a court thinks appropriate for a particular defendant may also be included in a bond. Community service may only be required in the case of a bond entered into on suspension of a sentence of imprisonment.

Clause 34 obliges a court to furnish the Minister of Correctional Services with copies of bonds and any variation to or extension of a bond.

Clause 35 provides for variation of bond conditions, either on the application of the Minister or of the probationer. Supervision may be waived by the probative court where the court is satisfied that it is no longer necessary and is counter-productive for the probationer. The court that imposed a bond may discharge the bond if the court is satisfied that it is no longer necessary for the probationer to be subject to a bond.

Part VI contains special provisions dealing with community service (whether ordered as a separate sentence or as a bond condition) and with supervision.

Clause 36 requires a court to be satisfied that there is a placement for a defendant before community service is ordered.

Clause 37 provides that a court may order that a defendant be subject to the supervision of a probation officer where the court has sentenced the defendant to community service.

Clause 38 sets out the conditions under which community service is to be performed. These provisions are essentially the same as those currently in the Offenders Probation Act (which of course is to be repealed). The maximum number of hours of community service is increased from 240 to 320. A person may be required to perform up to 24 hours per week, and attendance at certain approved educational

or recreational courses may qualify as performance of community service.

Clause 39 provides that a person subject to supervision by a probation officer must first report to the Department within two working days and must obey the probation officer's directions.

Clause 40 provides for the assignment of defendants to probation officers or community service officers.

Clause 41 sets out the directions that a probation officer may give a probationer in the course of supervision, and the directions that a community service officer may give during the course of community service.

Clause 42 continues the Minister's present powers upon a probationer breaching a bond by failing to obey an officer's directions. The Minister (of Correctional Services) may increase the hours of community service to be performed by up to an extra 24 hours. This power may also be exercised where a defendant is serving an actual sentence of community service.

Part VII deals with orders for restitution and compensation.

Clause 43 provides for the restitution of misappropriated property.

Clause 44 empowers the court to order payment of compensation to any person who suffers injury, loss or damage as a result of the defendant's offence. An order for compensation may be made in addition to, or instead of, any other sentence. This provision repeats the compensation provision recently inserted in the Criminal Law Consolidation Act. Courts of summary jurisdiction have power to make orders not exceeding $20 000.

Clause 45 provides for the variation of an order for compensation, but only in relation to the time and manner for payment.

Part VIII (clause 46) continues the present provision in the Justices Act empowering a court of summary jurisdiction to make orders for costs against defendants.

Part IX deals with enforcement of sentences.

Clause 47 makes it clear that this Bill alone will provide the code for enforcement of sentences.

Clause 48 deals with enforcement of bonds. This provision essentially follows the current enforcement provisions of the Offenders Probation Act. Superior courts may deal with breaches of bonds entered into before inferior courts.

Clause 49 sets out the orders that may be made upon a court being satisfied that a probationer has breached his or her bond. Again, this provision is virtually the same as the present provisions of the Offenders Probation Act.

Clause 50 provides for variation of the time or manner in which any sum of money payable under a bond, or a guarantee ancillary to a bond, is to be paid.

Clause 51 provides that if a defendant defaults in paying an instalment, the whole pecuniary sum becomes due and payable.

Clause 52 provides for the imprisonment of a person who defaults in paying a fine or other pecuniary sum. Imprisonment may be imposed by the court at the time of imposing the fine, or may be imposed subsequently by the appropriate court officer upon the defendant making default in payment. Imprisonment will be fixed according to a set scale of one day of imprisonment for each $50 of the amount outstanding, but cannot exceed six months in total.

Clause 53 provides for the taking of a defendant's land or goods in order to meet an outstanding fine or other pecuniary sum. The goods that can be taken are the goods that could be taken in bankruptcy proceedings. This type of enforcement is not to be used unless the major proportion of the amount outstanding would be covered by doing so. The power to sell land will only be exercisable for the purposes of recovering sums in excess of $10 000.

Clause 54 provides that court costs of issuing and executing warrants will be added to the sum in default.

Clause 55 provides for the discharge of a warrant if the person executing the warrant is paid the outstanding amount of the fine, etc.

Clause 56 repeats the present provision in the Justices Act that empowers the appropriate court officer to postpone or suspend warrants where appropriate.

Clause 57 provides that enforcement orders may be made in the absence of the person in default in certain circumstances. If this is done, the order must be served on the person, who is then given ten days in which to make good the default.

Clause 58 repeats the provisions of the recently enacted Criminal Law (Enforcement of Fines) Act, by providing that a person may work off a fine or other pecuniary sum by performing community service. This may be done if the appropriate court officer is satisfied that payment of a fine or other sum would cause severe hardship. This power may only be exercised where the sum involved does not exceed $2 000.

Clause 59 gives a court the power to remit a fine or other sum where the court is finally satisfied that enforcement is not possible or appropriate.

Clause 60 provides that default imprisonment reduces the outstanding amount of the fine by $50 for each day served in prison. The prisoner will be released if the outstanding amount is paid at any time.

Clause 61 makes it clear that 'working off' a compensation order by imprisonment or community service does not diminish the person's civil liability for the injury, loss or damage in question.

Clause 62 deals with the enforcement by appropriate officers of sentences of community service, or by the court of other orders that do not involve the payment of money. Imprisonment is the only form of enforcement left. A set scale of one day of imprisonment is provided for each eight hours of community service unperformed. No sentence of imprisonment under this section may exceed six months. A right of appeal lies against an appropriate officer's decision to make, or not to make, a sentence of imprisonment cumulative on some other term.

Part X contains miscellaneous provisions.

Clause 63 provides that there is no right of appeal against orders of appropriate officers unless there is express provision to the contrary.

Clause 64 abolishes the power of a court to order that imprisonment be accompanied by hard labour. This does not affect the power to require prisoners to perform work.

Clause 65 is an evidentiary provision relating to proving default in the payment of a pecuniary sum or other court order.

Clause 66 is the standard regulation-making power.

The schedule contains a transitional provision that makes it clear that the Bill applies to a person whether found guilty of an offence before or after the commencement of the Act, thus enabling the wide range of sentencing powers provided by this Bill to apply to as many cases as possible. Default imprisonment ordered prior to the new Act coming into operation is not affected. Clause 2 repeats a transitional provision relating to the fixing of non-parole periods in respect of 'old parole system' prisoners that is currently in the Correctional Services Act.

Mr D.S. BAKER (Victoria): According to the second reading explanation, the Bill has three aims. First, it con-

solidates existing statutory measures in relation to the options available to courts in South Australia for sentencing. At present those measures are contained in a number of the State's statutes. Law reform commissions, agencies and committees, both at the Federal and State level, have referred to and dealt with various parts of the Bill that is now before us.

While the general thrust of those recommendations seems to have wide support, that is, simplifying and consolidating into one statute the sentencing provisions, nevertheless certain doubts do arise in one's mind with this type of legislation. For example, a number of common law authorities scattered through the law may be affected by the passing of this attempt to make the sentencing provisions clear and precise, but it may have an effect in the opposite way. As a Parliament we should always be careful when we interfere by statute with longstanding common law practices that have stood the test of time over many generations.

Secondly, the Bill seeks to ensure that all sentencing options can be utilised by all courts in this State with the exception, of course, of the Children's Court which is not involved with any of the measures in this Bill. Thirdly, the Bill introduces some reforms to the powers of the court relating to imprisonment, fines and community service orders. A considerable amount of research work has been undertaken throughout Australia and in New Zealand, and legislation similar to this Bill now before the House has been introduced and enacted in New Zealand and some other Australian States. Some of that research deals specifically with the interests of keeping out of gaol various offenders.

No doubt exists that Governments are interested, because of the exorbitant costs, in keeping people out of gaol and in the research that has taken place towards this end. The general direction of legislation in Australia is towards the idea of codifying the law in relation to sentencing, but I suggest to the House that a number of appeals will stem from this legislation, and it could take a long time before this new legislation is thoroughly understood.

No doubt a wide ranging inquiry with a number of organisations involved in the law would have been asked to comment on this Bill. In a Bill of this nature, concerning which in its fundamental approaches there is general approval, I believe it would be helpful to all concerned if information was made available to the Parliament on the views of those people directly involved with the Bill's application. I do not believe that this Bill involves any confrontation on a political basis but it needs careful consideration.

Many of the views expressed by Government and experts should be available to members to study. We need to remember that, in codifying the law of sentencing into one statute, the existing rules of common law will no longer apply. The question this Parliament must address is whether the statute provisions we are to pass will cause any upsets to the accepted principles that now apply. It is more than just codifying the present widely spread provisions: it is implememting a new procedure for the law in relation to sentencing.

Several areas concern me, one being alluded to in the previous statutes amendment Bill, namely, the attempt by the Government to take out section 77. It removes from the Act the provision relating to habitual and sexual offenders when they are placed in gaol and detained at the Governor's pleasure. By removing such a provision, the Government is abrogating its role in society, because to put that provision in the Criminal Law (Sentencing) Bill is to throw back onto the courts a decision that should be made by the Government.

Governments will find it only too easy to say, 'We would have done something about offenders under both those codes, but unfortunately the courts took an opposite view and the matter is unfortunately now out of our hands.' This Bill will generally weaken law and order in this State, because one of the aims under this Bill is to keep people out of gaol. It is very dangerous for any Government to attempt to abrogate its responsibility regarding people detained at the Governor's pleasure.

One of the other dangers in the Bill is that it has a tendency in some cases to override existing legislation or override the common law. A typical example of that was shown by the shadow Attorney-General in another place when it was illustrated that, for a second offence involving a blood alcohol content exceeding .08 under the drink-driving legislation, a gaol term is mandatory. However, under this Bill the court would be required to follow this Act which would override the common law provision, and that is quite dangerous.

I repeat that generally we support the Bill but emphasise our reservations, which will be taken up in Committee. I suggest that a number of problems exist and they will surface as the debate continues. I will close by making one statement. One of the main advantages to the legal profession from this Bill is that it will result in considerable activity before the courts of appeal involving questions of interpretation and the balance to be achieved in sentencing a person convicted of an offence. We support the Bill with those reservations.

Mr M.J. EVANS (Elizabeth): This is a very important measure. Obviously, the previous Bill before the House is very much an ancillary measure: this is clearly the principal Bill and one on which I would normally like to have made a reasonably substantial contribution to the discussion before the House. Unfortunately, that will have to be postponed until Committee because the Minister's speech only became available moments ago, the Bill having only been introduced last week. Copies were not available at the time and have only just become so available. Therefore, any substantive consideration of the matter will have to await the Committee stage. That is unfortunate because a Bill like this would merit a substantial second reading contribution.

Indeed, the Minister alluded to the significant period of time and massive amounts of work that have gone into the preparation of this Bill. Parliament is very much second best in that process and, while Governments reserve for themselves significant periods of time for consideration and consultation on Bills, when introduced to the House a matter of a day or so is considered to be adequate. That is not a practical proposition and the opportunity is not there in this major matter to give it the consideration it deserves. The Minister will not be surprised if I postpone my second reading contribution until the Committee stage of the Bill and speak on these issues as a matter of policy on a clause by clause basis, as that is what the circumstances will force members of this place to do.

I hope that in future Bills of this substance will receive more time than has this one. Certainly, on first glance at the proposition before us, a number of issues will need to be debated in considerable detail. This House will be very lax in its duty if it does not examine some of these provisions very carefully. Some of the areas clearly have to relate to the sentencing options and to the rights of the many victims of crime to have their cases heard as part of the process and receive adequate compensation for the injury and loss suffered.

Those are the areas upon which I want particularly to focus my remarks and I will certainly do that during the

Committee stage, although of necessity the remarks may initially be more general than would otherwise be the case. I am sure that it will be a reasonably drawn out process because, as other members have said, this is an important Bill and I am sure that the South Australian community will expect us to give it that detailed consideration at the appropriate time.

Mr S.J. BAKER (Mitcham): I am not enamoured of the Bill. Admittedly, the Bill comes before the House in a better form than was the case in the other place. We are taking a quantum leap with this Bill. We are attempting to put into law practices that have built up over the past 200 years relating to procedures to be followed in sentencing and other related matters. I have serious reservations about the way in which the Government has approached this area, because what has been accepted practice and was placed in the Statute in the past is no longer the case.

Members will recall some of my speeches about changes to criminal law in which I said that, as soon as we try to put into the written law what has been accepted for many years in the common law, we always risk making some grave mistakes. To give an example, when we talk about general sentencing powers, the courts have to determine sentences on the bases of 16, often competing, different criteria which no person could possibly weigh and consider. More importantly, because of the conflicting ideas expressed in this Bill, the legal profession of this State could well receive considerable work.

I would be the last one to suggest that the legal profession needs any more work than it has today but, because we are changing the rules with these amendments rather than letting the procedures of the past prevail, we are at risk of making all the sentencing procedures put into place over a number of years subject to appeal, and this will make the courts quite unworkable. We have to be very careful that we do not make the rules so complicated and conflicting that we will have most of our cases in the courts tied up on technicalities which could arise if the courts have to consider this enormous list of criteria for every case brought before them.

We have been well aware that over a period the Judiciary have become almost paranoid about precedents in terms of sentencing. As soon as they are deemed to have strayed from the accepted range of sentences, there are cries for an appeal, whether it be by the Crown against the light sentence given, or by the defendant because the sentence is deemed to be too harsh. Unfortunately, that is a feature of our courts system today. My colleague has already outlined some of the changes foreshadowed in this Bill.

I agree with the member for Elizabeth that adequate time had not been provided. I believe that everyone should have something to say on this Bill. It refers to such areas of discretion as community service orders, bonds, probation, fines, and sentences involving prior offences. Really, it covers the whole ambit of criminal law sentencing procedures. I am not impressed with the Bill but, as I said, it is far more workable than the original one. When we get to the Committee stage, like most members in the House I will be able to speak to the particular clauses and to raise my concerns as to the way in which this legislation will impact on the community.

The Hon. G.J. CRAFTER (Minister of Education): I thank those members who have spoken in this second reading debate for their indication that they will pursue a number of matters during the Committee stage. As I said in dealing with the Statutes Amendment and Repeal (Sentencing) Bill, this is the substantive measure. It brings together existing legislation which covers sentencing provisions in our laws, including the Criminal Law Consolidation Act, Offenders Probation Act, Justices Act, Correctional Services Act, Criminal Law (Enforcement of Fines) Act, and Local and District Criminal Courts Act.

A number of inquiries have been made in the review of criminal law and they have instigated the provisions now contained in this Bill. One of those reviews involved the Mitchell Committee, which undertook a very important review of the criminal law and penal methods in this State in the early 1970s. The committee produced four reports. I note also within the Federal context that the Australian Law Reform Commission made recommendations that are in line with this legislation. I repeat what the Federal Law Reform Commission said on this matter:

> There is a need to simplify and to consolidate into one . . . Statute all general sentencing provisions . . . At present [ready] access is possible only through the acquisition and use of a detailed knowledge of the criminal law, and following reference to an array of statutory and common law authorities scattered in many places. Such a restricted and cumbersome process does not accord with the principle that the law, and particularly the law relating to crime and punishment, should be clear, precise and widely available and known.

I think that that very succinctly states the intention of this Bill. I know that some members have said that they believe it does not go far enough, or that it goes too far in stating the law in a number of areas and the responsibilities that it places upon judicial officers in this State. It is a broad measure which covers the areas of imprisonment, fines, community service orders, rights of victims, the variation in the manner of payment of moneys, enforcement procedures available and a number of other related matters. It is a very comprehensive consolidation and review of sentencing in South Australia.

I apologise to the member for Elizabeth that he did not have an advance copy of the second reading explanation. One was made available last week to the Opposition for its consideration and, after all, the matter has been subject to very substantial debate and review in the other place.

May I just comment briefly on the comments by the member for Victoria on what he perceives to be the dangers of vesting within the Judiciary certain powers encompassed in this measure. One must be clear on the respective elements of Government in our Westminster system as embodied in our State Constitution. As to any Legislature that wants to vest within the Administration, as embodied in Executive Council, powers that are more rightly administered by the courts, especially in respect of sentencing and indeterminate sentences and giving to the Cabinet broad ranging sentencing powers, one must be cautious about treading down that path too far.

The member for Victoria asked us to go a long way down that path to make the Executive of Government indeed a quasi court and to vest in it substantial sentencing powers and powers of review of sentences that have indeed been passed by the courts some time in the past. Therefore, I caution members about the path which the honourable member suggests we should traverse in this legislation. With those comments I commend this important measure to members.

Bill read a second time.

In Committee.

Clause 1 passed.

Progress reported; Committee to sit again.

LOCAL GOVERNMENT ACT AMENDMENT BILL, (1988)

The Legislative Council intimated that it agreed to the recommendations of the conference.

ADJOURNMENT

At 10.18 p.m. the House adjourned until Wednesday 30 March at 2 p.m.

HOUSE OF ASSEMBLY

Tuesday 29 March 1988

QUESTIONS ON NOTICE

AUDITOR-GENERAL'S REPORT

295. **Mr OLSEN** (on notice) asked the Minister of Employment and Further Education: Following the revelation by the Auditor-General on page (xv) of his 1987 report that he has again referred to the Minister the matter of the unfunded liability for both superannuation and long service leave of the South Australian College of Advanced Education, the South Australian Institute of Technology and Roseworthy Agricultural College will the Minister table all correspondence from the Auditor-General relating to this matter and any replies he has made?

The Hon. LYNN ARNOLD: Concurrent with the tabling of this answer I will table:

1. Letter from Auditor-General to TEASA dated 11 July 1984, and TEASA's reply dated 8 August 1984. The attachment can be made available on a confidential basis.

2. Letter from Auditor-General to TEASA dated 4 September 1986, and TEASA's reply dated 15 September 1986. The attachment can be made available on a confidential basis.

3. Memo from Auditor-General dated 15 May 1987, and my reply dated 10 August 1987. The attachment sent to the Auditor-General can be made available on a confidential basis.

The matter was recently raised with the Premier by the Prime Minister and it appears that the Commonwealth is moving to a position where it will fully fund superannuation costs provided that it can arrange to be reimbursed by the States for costs in excess of 14 per cent of superannuable salaries.

HOUSING TRUST COUNTRY ACCOMMODATION

466. **Mr BECKER** (on notice) asked the Minister of Housing and Construction:

1. How many new homes will be built in the country by the South Australian Housing Trust this financial year, where will they be built and how do these numbers compare with the past financial year?

2. What is the demand for all types of trust accommodation in Kadina, when will sufficient accommodation be provided and what is the reason for the delay?

3. What action can the Government take to prevent a home building slump in the Green and Iron Triangles?

The Hon. T.H. HEMMINGS: The replies are as follows:

1. The trust will start a total of 200 units in the country areas as part of its 1987-88 Capital Works Program.

This compares with the 594 units (including 54 design and construct units) started in country areas during 1986-87. These units were spread over the following regions:

Region	1986-87	1987-88
Northern	129	68
Southern and Riverland	269	69
Central	78	15
Eyre	64	24
South East	54	24
	594	200

2. The trust currently holds 68 applications for housing in Kadina, comprising 60 for family housing, and eight for aged accommodation. Applications which were registered in November 1984 are currently being considered for housing. Due to the reduced building program a higher priority has been given to projects within the central metropolitan area, since there is a far greater demand for housing in this area.

3. According to Australian Bureau of Statistics data, the population in the three major towns of the Iron Triangle decreased by 6.3 per cent between 1981 and 1986 compared to an increase of 2.1 per cent for the three major towns in the Green Triangle. For the same period, there was a 3.9 per cent increase in population in the Adelaide metropolitan area. Therefore, on these figures, it is logical that building activities in these areas would be lower than for the Adelaide metropolitan area. Within the context of overall cuts to the State's housing budget, priorities within the Housing Trust's construction program reflect both the realities of population change and the general levels of construction activity for business in these areas. It is considered that this is an appropriate response.

GOVERNMENT MOTOR VEHICLES

546. **Mr BECKER** (on notice) asked the Minister of Transport:

1. To which Government department or authority does the Mitsubishi motor vehicle registered UQG 913 belong and for what purpose is that vehicle being used?

2. Why was the vehicle, apparently purchased in the Mid-North, at Largs Bay on Saturday, 26 December 1987 at 11.46 a.m. and who were the four adult males in the vehicle watching the Tall Ships?

The Hon. G.F. KENEALLY: the replies are as follows:

1. The Mitsubishi motor vehicle registered UQG-913 is owned by the Intellectually Disabled Services Council Inc., and is used in the community services component of our Mid-North base at Kadina.

2. It is common to arrange recreational outings as part of the training offered to clients to support them in maintaining or resuming a lifestyle in the community.

On 26 December 1987, one such outing was arranged whereby one staff member accompanied three clients on a trip which included viewing the Tall Ships.

The outing was approved by the local Regional Director.

563. **Mr BECKER** (on notice) asked the Minister of Transport:

1. What is the Government's policy in respect to liability for third party injury and property damage arising from accidents involving private and/or unauthorised use of Government motor vehicles?

2. How many accidents have Government motor vehicles been involved in whilst being used privately in the past 12 months, what was the total cost of damage and injuries sustained and what was the cost to the Government or agency?

The Hon. G.F. KENEALLY: The replies are as follows:

1. The State Government Insurance Commission covers Government vehicles for all third party insurance claims. Under section 123 of the Motor Vehicles Act there is provision for the insurer to recover money paid or costs incurred from the driver of a vehicle if that vehicle was used without the consent of the owner. In relation to private or unauthorised use, each department and statutory authority is held responsible for the control of vehicles owned by it.

2. Information on property damage caused by Government vehicles involved in accidents is held by agencies which own the vehicle.

THEBARTON COUNCIL

565. **MR BECKER:** (on notice) asked the Minister of Transport representing the Minister of Local Government: Was a sum of $138 000 given to Thebarton Council about 2½ years ago by the Deputy Premier to restore a community house in 4 Hughes Street, Mile End and, if so, what has happened to the money?

The Hon. G.F. KENEALLY: On 15 March 1986 the Deputy Premier gave to the Thebarton Council as part of the Inner Western Metropolitan Program a sum of $166 900 for the provision of a neighbourhood centre in Mile End.

The council used $108 000 to purchase 4 Hughes Street, Mile End and has spent $12 000 on architects fees. The council is holding $46 900 to put towards restoration. The Deputy Premier has been advised by the council that, following costing of the necessary restoration work, the council has decided that the total cost of providing a neighbourhood centre at 4 Hughes Street, Mile End, is excessive and that it proposes to sell the property and use the proceeds and remaining grant money to provide an alternative neighbourhood centre. The Deputy Premier is writing to the council advising it that until an acceptable alternative is proposed it will be necessary for the council to refund the whole of the grant.

RAILWAY STATION CAFETERIA

572. **Mr BECKER** (on notice) asked the Minister of Transport:

1. How much has been spent on refurbishing the cafeteria in the Adelaide Railway Station in each of the years ended 30 June 1983 to 1987 and this year to date and why?
2. When was the State Transport Authority advised that all country and interstate passengers of Australian National Railways would arrive and depart from Keswick?
3. How much of the copper pipe and other external fittings was utilised by the Adelaide Casino complex and at what saving to the Casino venture?
4. What will happen to the new equipment, coldrooms, ovens, fryers, etc., now unused because the cafeteria is closed?
5. When was the cafeteria officially closed and why?

The Hon. G.F. KENEALLY: The replies are as follows:

1. 1983—$393 860 (major refurbishment).
   1984—Nil.
   1985—$10 360 (modifications to servery).
   1986—$1 400 (modifications to servery).
   1987—Nil.
   1988—(to 31 January)—Nil.
2. Australian National advised the authority on 13 August 1982 that it was expected that they would vacate Adelaide Railway Station by June 1984.
3. Clarification of the term 'copper pipe and other external fittings' is required before the question may be appropriately answered.
4. The future use of the cafeteria/kitchen area including equipment is under consideration.
5. The cafeteria was closed on 18 December 1987 because it was poorly patronised by the public and uneconomical to operate.

TROTTING INQUIRY

610. **Mr INGERSON** (on notice) asked the Minister of Recreation and Sport: What administration changes are proposed after the Police inquiry into trotting?

The Hon. M.K. MAYES: Several changes to administrative and operational practices have already been implemented by the Trotting Control Board following the circumstances of the Batik Print, Columbia Wealth and Keystone Adios cases. The central problem was the elapsed time between the horses being swabbed and the split sample being analysed in the presence of an independent analyst.

The board has addressed this problem, and after seeking legal advice instituted changes which ensured that the length of time could not be of the order of 40 days. The current procedure is that when an irregularity is reported by the laboratory (usually within one week of the swab being taken), the stewards visit the trainer concerned, within 24 hours, explain the situation and obtain a signature on a specifically designed form if there is no requirement to have the split sample independently analysed. Should the trainer wish to have the split sample analysed, arrangments must be made within 48 hours and the test must be performed within seven days. If necessary, the stewards will provide the trainer with the names of people who are qualified to act as independent analysts.

In addition, the following initiatives have been adopted:

1. The South Australian Trotting Control Board has doubled the amount spent on swabbing in the last two years (from $13 000 in 1985-86 to $25 000 in 1987-88).
2. Greater attention is now paid to the temperature at which swabs are kept prior to despatch to the laboratory.
3. Greater attention is now paid to the security of swabs whilst they are in possession of officers of the board.
4. Within financial constraints, swabbing has become more flexible and less predictable. For example, all runners have been swabbed recently and on one night a number of horses were swabbed and re-swabbed the following morning.
5. The stewards have had closer liaison with police officers.
6. The board has appointed an additional steward/starter on a full-time basis. This will allow greater flexibility and more time for stewards to concentate on matters such as stable inspections, etc.

It must be acknowleged that not all of these changes have resulted directly from either the Batik Print case or from the report of the police inquiry into allegations made about the trotting industry. Some of the changes mentioned would certainly have resulted from the normal progression of factors within the industry.

However, following my inquiries and reports received at my request from the Trotting Control Board, I am satisfied with the administrative changes which have been introduced so far.

The above information should be read in the context that administrative and operational practices of the Trotting Control Board are under continuing review.

CROUZET SYSTEM

613. **Mr INGERSON** (on notice) asked the Minister of Transport:

1. How many computer software programs for the Crouzet system have been rewritten or changed and at what cost?
2. How many validators have been replaced?

The Hon. G.F. KENEALLY: The replies are as follows:

1. Three versions of the software programs needed for control of the revenue system at bus depots, railway stations

and offices have been provided by Crouzet. The software is under warranty by Crouzet and no cost has been incurred by the STA.

Crouzet has made one software change to the control units used on railcars and two changes to each of the validator and control units used on buses. Costs incurred in overcoming basic software faults were met by Crouzet. The STA requested and paid for operational changes which cost $59 612.

2. To date it has not been necessary to replace any validators.

MINISTER OF LANDS, MINISTER OF FORESTS

621. **Mr GUNN** (on notice) asked the Minister of Lands: How many Acts are administered by the Minister of Lands and Minister of Forests respectively?

The Hon. R.K. ABBOTT: The replies are as follows:

(a) Lands—20

(b) Forests—2