HOUSE OF ASSEMBLY

Tuesday 1 November 1994

The SPEAKER (Hon. G.M. Gunn) took the Chair at 2 p.m. and read prayers.

ASSENT TO BILLS

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

Criminal Law Consolidation (Felonies and Misdemeanours) Amendment,

Easter (Repeal),

Gaming Machines (Prohibition of Cross Holdings, Profit Sharing, etc.) Amendment,

Mining (Royalties) Amendment,

South Australian Office of Financial Supervision (Register of Financial Interests) Amendment.

LUCINDALE AREA SCHOOL

A petition signed by 126 residents of South Australia requesting that the House urge the Government to maintain education services at the Lucindale Area School was presented by the Hon. D.S. Baker.

Petition received.

EDUCATION AND CHILDREN'S SERVICES

A petition signed by 37 residents of South Australia requesting that the House urge the Government not to cut the education and children's services budget was presented by the Hon. D.C. Wotton.

Petition received.

CONTAINER DEPOSITS

A petition signed by 716 residents of South Australia requesting that the House urge the Government to increase, or at least maintain, the deposit on returnable containers was presented by the Hon. D.C. Wotton.

Petition received.

DIALYSIS PATIENTS

A petition signed by 1 542 residents of South Australia requesting that the House urge the Government to provide respite care for dialysis patients in Mount Gambier and the local area was presented by the Hon. H. Allison.

Petition received.

QUESTION

The SPEAKER: I direct that the following written answer to a question without notice be distributed and printed in *Hansard*.

POLICE FORCE

In reply to **Mrs GERAGHTY (Torrens)** 13 October.

The Hon. W.A. MATTHEW: In 1984 SAPOL commenced specific training on mental illness with new recruits. The Psychology Branch is responsible for the training and it relates to three distinct areas:

(1) Knowledge, Psychology and the Law

(2) Attitude Change

(3) Skills building to enable members to deal with mentally disturbed persons in operational encounters.

The theoretical training concentrates on common misconceptions about mental illness, the causes of psychiatric disorders, comparisons of psychotic and neurotic disorders, recognition of psychiatrically disturbed behaviour, typical policing situations encountered, methods of relating to disturbed persons and options for resolving instances requiring police attendance.

The Mental Health Act and relevant Police General Orders are also examined to ensure trainees understand police responsibilities for apprehension and conveyance, admission orders and the associated paperwork, offences under the Act and procedures to adopt when it is necessary to interview persons suspected of being mentally ill.

A visit to a psychiatric hospital is arranged and this is designed to be experiential for recruits. They develop an appreciation of the hospital role and its interface with the police. The recruits then spend time interacting with patients, learning to recognise the behaviour exhibited by disturbed persons and developing the interpersonal skills and confidence to empathetically relate to people with psychiatric problems.

There has been a direct liaison between the South Australian Mental Health Service and the Psychology Branch for the last ten years. As a result of the information received from SAMHS, the Psychology Branch continually reviews and modifies the program.

In addition to specific training with respect to mental illness, handling of suicidal and siege behaviour is included. Part of the training of recruits involves the complete area of psychology-crisis behaviour and the course is conducted by the Psychology Branch. Successful completion attains credit towards one of the subjects in the attainment of the Certificate in Justice Studies conducted by TAFE.

The Police Practice Module for qualification for Sergeants contains segments on the handling of siege, terrorist and hostage situations where the emphasis is placed not only on command and control, but on negotiation techniques. The Psychology Branch is involved in this training. Members undertaking the degree course at Charles Sturt University also complete subjects in psychology.

Star Division personnel are trained to focus on dealing with specific incidents where their expertise is required rather than on various types of people who may be involved in particular incidents. Whenever a situation is encountered where an offender may be armed with a weapon or knife, the Star Division members attempt to negotiate with the offender, and in the event of this being unsuccessful, may need to use other tactics. In all cases, the SAPOL policy is to pursue resolution by negotiation. National training provided through the Standing Advisory Committee on the Cooperation of States for the Protection Against Violence (SACCSPAV) and local training courses are provided for negotiators.

The policy of resolution without the use of firearms and by negotiation has been actively followed in South Australia and trained negotiators have been used since 1979. Numerous instances could be cited as examples of resolution in this manner. Many have not received media publicity. In the last 16 years, only two persons have been shot by Star Division members as a last resort and both survived. Victoria Police Force have been in contact with the Star Division and are assessing our tactics with a view of adopting a similar approach in their State.

The National Police Research Unit has also been involved in assisting VICPOL. Prior to the Melbourne shooting of a mental patient, the Deputy Commissioner of Police and Superintendent Mase, Executive Services Branch (former Principal Hostage Negotiator in South Australia) had discussions with the Chief Executive Officer of the Mental Health Service concerning a number of aspects of management of mentally disturbed persons in the community. One aspect of this was the handling of incidents of violence. As a consequence, a further meeting has been arranged with members of the Senior Executive Group and other key personnel in order to establish regional liaison and call out arrangements to involve SAMHS in incident handling. This meeting was scheduled for 14 October 1994.

PAPERS TABLED

The following papers were laid on the table:

By the Deputy Premier (Hon. S.J. Baker)—

Fair Trading Act 1987—Regulations—Exemption—Fly Buys.
Juries Act—Rules of Court—Election.

By the Treasurer (Hon. S.J. Baker)—

Auditor-General's Department—Report, 1993-94.
South Australian Freedom of Information Act 1991—Report, 1993-94.
Privacy Committee of South Australia—Report, 1993-94.
Department for State Services—Report, 1993-94.
Lottery and Gaming Act—Regulations—Licence Fees—Waiver.

By the Minister for Industrial Affairs (Hon. G.A. Ingerson)—

Department for Industrial Affairs—Report, 1993-94.
The Construction Industry Long Service Leave Board—Estimate of Liabilities Report, 1993-94.

By the Minister for Infrastructure (Hon. J.W. Olsen)—

Electricity Trust of South Australia—Report, 1993-94.

By the Minister for Health (Hon. M.H. Armitage)—

Medical Practitioners Act—Regulations—Registration Fees.

By the Minister for Housing, Urban Development and Local Government Relations (Hon. J.G.K. Oswald)—

South Australian Cooperative Housing Authority—Report, 1993-94.
Enfield Cemetery Trust—Report, 1993-94.
Local Government Finance Authority—Report, 1993-94.
Department for Recreation and Sport—Report, 1993-94.

By the Minister for Mines and Energy (Hon. D.S. Baker)—

Petroleum (Submerged Lands) Act—Regulations—Registration Fees.

By the Minister for Primary Industries (Hon. D.S. Baker)—

South Eastern Water Conservation and Drainage Board—Report, 1993-94.

By the Minister for the Environment and Natural Resources (Hon. D.C. Wotton)—

Regulations under the following Acts:
Environment Protection—
General.
Ozone Protection.
Schedule Variation.
Pastoral Land Management and Conservation—Access.

By the Minister for Emergency Services (Hon. W.A. Matthew)—

National Crime Authority—Report, 1993-94.

GAMING MACHINES

The Hon. S.J. BAKER (Deputy Premier): I seek leave to make a ministerial statement.

Leave granted.

The Hon. S.J. BAKER: I wish to make a statement to the House in regard to the gaming machine industry in South Australia. On 12 May this year, I informed the House of the Government's intention to introduce legislation in the budget session to address fundamental problems and inadequacies in the gaming machine legislation and regulatory framework. As I advised in May, the existing licensing and regulation structure, which was agreed by the former Government, is fragmented and lacking in any centralised control. The gaming machine legislation, which finally emerged from the State Parliament after much controversy and compromise has, not surprisingly, proven to be both inappropriate and inadequate.

The flaws in the legislation mean there is no single controlling body to oversee the operation of gaming machines in hotels and clubs throughout the State. Instead we have numerous Government and non-government bodies involved in the process, playing different roles with no official coordinating authority or controlling body. These parties include the Liquor Licensing Commissioner, who is responsible for the administration of the Gaming Machines Act 1992 and is the licensing and approval authority, and the Independent Gaming Corporation, which is responsible for the installation and operation of the central computer monitoring system to which all gaming machines are connected.

Under the current structure, the Casino Supervisory Authority is the appellate body for decisions of the Liquor Licensing Commissioner and also has the power, either of its own volition or at the request of the Minister, to inquire into any aspect of the gaming machine industry. Other players include the Commissioner of Police and the State Supply Board, which is responsible for the installation, service and repair of gaming machines, components and equipment.

The poorly-framed legislative and regulatory framework provides the various licence holders with a significant level of independence, in contrast to interstate jurisdictions where centralised control is a key feature of the efforts to maintain the integrity of the level of various activities, particularly with respect to the monitoring of gaming machine operations. Under the existing framework, the Government is unable to direct the Independent Gaming Corporation should the actions of the corporation be considered contrary to the interests of the public.

The inadequacies resulting from the lack of a centralised controlling body presented numerous difficulties during the establishment phase of this new industry. Despite this, gaming machine operations were successfully launched on 25 July. Nevertheless, the effective, ongoing control of this industry through a centralised supervisory body is essential. The Government will introduce legislation this session to establish a Gaming Authority, which will become the overarching supervisory body for gaming machine operations in this State.

Rather than establish yet another entity to provide this centralised supervision, the Government has decided to expand the role of the Casino Supervisory Authority to create a Gaming Authority responsible for the gaming and casino industries. The Gaming Authority will be responsible for the administration of the gaming machine industry, including the power to give directions to the industry, regulatory and monitoring bodies.

Under this new structure, the Liquor Licensing Commissioner will retain independence with respect to his statutory duties under the Act, however appeals against decisions of the Liquor Licensing Commissioner on gaming matters will be transferred to the Liquor Licensing Court. This will remove any doubts about the appropriateness of disciplinary appeals arising from decisions of the Commissioner. Under the existing structure, the Commissioner is responsible for officers detecting breaches as well as adjudicating appeals, which result from the action of inspectors under his control. Under the proposed changes, appeals against decisions of the Gaming Authority will also be heard by the Licensing Court, thus centralising the appeal processes for licensing, gaming

and casino issues under the jurisdiction of the Liquor Licensing Court.

The proposed structure will maintain the essential independence of the Commissioner of Police and the Auditor-General and the statutory independence of the Liquor Licensing Commissioner in respect of licensing and approval processes. In view of its expanded role, the membership of the Casino Supervisory Authority will need to be reviewed and the number of members increased. The authority currently consists of three members.

The establishment of a gaming authority to improve control of the licensing, supply and monitoring of gaming machines is the first step towards a more integrated approach to the management of the full range of gaming activities in South Australia. The proposed changes that I have outlined today will require amendments to the Liquor Licensing Act, the Casino Act and the Gaming Machines Act. I expect to introduce the necessary Bills to the House this session.

BUILDING MANAGEMENT DEPARTMENT

The Hon. G.A. INGERSON (Minister for Tourism): I seek leave to make a ministerial statement.

Leave granted.

The Hon. G.A. INGERSON: Today I announced to the staff of the Department for Building Management the particulars of phase 2 of this department's restructuring. In May 1994 Cabinet approved the creation of a Public Works Authority [the Department for Building Management (DBM)] with a central policy and advisory capacity, risk management capability, and a small service function undertaking only those competitive activities that can be justified in a commercial environment. The new department was expected to achieve a staffing level of about 500 FTEs at the end of two years.

It was further agreed that agencies would be untied progressively over a six month period from low risk, competitive services as asset management policies and procedures in relation to the built assets of Government were put in place. An Interagency Implementation Committee representing a broad range of Government departments, including education and the Health Commission, was created to advise on the untying process.

Since the May Cabinet decision the staffing levels in the department have reduced by nearly 300 FTEs through targeted separation packages (TSPs) to a current level of 745 FTEs (including apprentices and trainees). This is expected to reach a figure of about 500 FTEs (including apprentices and trainees) by 30 June 1995, which will be made up of approximately 280 in maintenance services, and 200 in project risk management and other mandated property services. Several reviews have also been taken in the past month to determine the final scope, size and structure of the department and, in particular, the viability of SACON's commercial activities. As a result of these reviews the department will implement the following:

SACON will withdraw from the provision of design and construction services.

- These services have been assessed as not commercially viable in an untied environment. The recommendation to disband them fits with the previous decision that only those services which could compete in a commercial environment would be retained.
- Withdrawal from these services will take into account current work commitments and will occur progressively as these are concluded. The need for the department to retain specialist skills for core business tasks will also be a consideration in any separation of staff from these areas.

SACON will continue to provide minor works and maintenance services through a more efficient, client focused unit: a proposed facilities maintenance service.

- Maintenance services have been assessed as commercially viable if at least current income levels can be maintained and time is allowed for the results of productivity improvement and cost reduction programs already in train to take effect.
- In order to sustain this viability the lead time on agencies being untied from the requirement to use these services will be extended for two years.
- The Department for Building Management will work with agencies to develop specific asset maintenance plans for individual assets.
- Agencies will be progressively untied from the requirement to use minor works services as apprentice training programs are completed (existing commitments to apprentices necessitate an assured flow of work).

The department's country area offices network will be maintained and will continue to provide services to agencies in contracting for maintenance and minor works. The Adelaide Area Office will be disbanded in response to review findings of overlap and duplication between the functions of the Adelaide Area Office and the Maintenance Branch. Staff will be transferred to support the Department's Building and Land Management System, other asset management services and to the proposed facilities maintenance service. Some staff savings will occur following this reorganisation.

A building asset management consultancy service will be created by a refocussing of the existing Client Services Division to provide support services to agencies in asset and risk management, including mandated project risk management services. The department's building asset management policy unit will continue to develop the asset management policy framework for management of the State's building assets and to support the work of the Interagency Implementation Committee, the Infrastructure Agency Forum, Construction Industry Advisory Council and the Public Works Standing Committee. Careful management of the downsizing is required to ensure in the longer term the retention of skilled and competent staff for the department's core business. The Government has extended the availability of TSPs to June 1995 for those staff committed to the completion of construction and design work.

The strategy I have outlined for the future of the Department for Building Management is an effective response by the Government to concerns expressed by the Commission of Audit at the condition of the State's ageing assets and the need to develop improved asset management strategies and practices to enhance performance of those assets. By withdrawing increasingly from the delivery of commercial services, the Department for Building Management is better placed to focus on its core business. The department will assist Government agencies to develop comprehensive asset management plans and sound practices for the procurement of building works and services. As a safeguard, to protect the interest of Government, agencies will be required to use the project risk management services of the department when embarking on capital works projects over $150 000 in value.

The withdrawal of SACON from the direct delivery of construction and design services is in line with the Government's policy objectives on outsourcing and provides

opportunities for private sector involvement in those areas. Maintenance services, however, have demonstrated the potential for commercial viability. Their retention ensures that the State's buildings will continue to be maintained by in-house services with personnel who have knowledge of the business and their clients. Agencies generally are not yet in a position to manage the contracting out of maintenance services in a way that will not incur risks.

The Department for Building Management will retain key specialist and professional staff with the skills and expertise needed to support and assist agencies. At the same time the Government will work with industry representatives to ensure the Government and the construction industry's commitment to supporting traineeships is maintained. With the Government's no retrenchment commitment, there are costs in the short term in withdrawing from construction and design services.

QUESTION TIME

The SPEAKER: Before calling for questions, I advise the House that questions which would normally be directed to the Minister for the Environment and Natural Resources will be taken by the Minister for Housing, Urban Development and Local Government Relations.

WATER RATES

Mr FOLEY (Hart): My question is directed to the Premier. Does the Government intend to introduce a user-pays system for water rating, and can he dispel the confusion that has come from a series of conflicting statements about this issue by him and the Minister for Infrastructure?

Members interjecting:

The SPEAKER: Order! The Minister and the member directly behind him will cease interjecting. The member for Hart.

Mr FOLEY: Thank you, Mr Speaker. Last week the Premier told Parliament that the Government intended to adopt the recommendation of the Audit Commission to introduce a user-pays system and to abolish cross subsidies. The next day the Premier told a press conference that no decision had been made and it was 'stupid and wild speculation'. He said, 'No decisions have been made about how the price of water should be changed.' But yesterday the Minister for Infrastructure said that a user-pays system would be introduced.

The Hon. DEAN BROWN: I can assure the member for Hart that the only inconsistency is coming from the Opposition and some members of the media who have taken comments entirely out of context. I will highlight the extent to which the member for Hart has distorted the truth once again. He said that in this House last Thursday I had said that we were going to adopt the recommendations of the Audit Commission report and cut out cross subsidisation. That is not what I said in the House. I have here what I said in the House, namely, that we were going to adopt the general recommendation of the Audit Commission. I said that no proposal, however, had been put to Cabinet on any adjustment of water rates. Nowhere in my answer in the House last Thursday did I talk about cross subsidisation of water rates at all, yet this afternoon the member for Hart distorts once again what I was alleged to have said when in fact according to the record, which the honourable member can look at, it is clearly not there.

I anticipated that this question might come up, so the Minister and I sat down and looked at all the transcripts of the public statements that he and I had made, and the incredible thing is that there is absolutely no inconsistency whatsoever. The truth is there for everyone to see.

Members interjecting:

The SPEAKER: Order!

The Hon. DEAN BROWN: The point that both of us have been making has been consistent throughout: we have adopted the Audit Commission recommendation that there should be a review of water pricing, and we are awaiting a detailed Cabinet submission to come forward. We have not adopted the 10 specific recommendations that were put down. Throughout I have consistently said that we have not adopted the 10 specific recommendations. In fact, we could not have done that because, as I pointed out in the House last Thursday and at the two press conferences on Friday, no specific recommendation had gone to Cabinet at all. I will also point out what I said at the press conference on Friday, because this is where further distortions occur. I will quote from the transcript of that press conference:

> Industry that puts a lot into the sewerage effluent system should be paying more than others who put much less in.

After the next question, I went on to say:

> Industry that uses the sewerage effluent system will pay for that system, will pay for that use, and pay heavily for it.

I point out that sewage is different from water, but members opposite would not understand that. If the member for Hart—

Mr Foley interjecting:

The SPEAKER: Order!

The Hon. DEAN BROWN: If the honourable member had listened to what I said at the employers' chamber dinner, I specifically talked about the fact that industry was going to pay very heavily—those who polluted—and one form of pollution is the effluent system. I had made a public statement on that a week earlier—that industry will in fact pay very heavily. It is interesting, because the newspaper reporter who quoted on that press conference in fact got his story correct: you only have to look at the body of the story, where he states how I said that industry would pay heavily for the disposal of waste water. However, someone put a headline on it with a paragraph which stated, 'Industry will pay heavily under the user-pays water plan.' I was talking about sewerage and someone put a headline on it that I was talking about a water plan.

So that inaccuracy was made in the headline, and another journalist for a TV story yesterday apparently picked up that what was in the headline was fact and quoted me as saying that. I find it astounding that inaccuracy after inaccuracy should feed on that. So you have a TV story which quite inaccurately tries to purport me as saying that industry will pay very heavily for an increase in the price of water when in fact everything the Minister and I have said has been absolutely consistent.

Members interjecting:

The SPEAKER: Order!

The Hon. DEAN BROWN: I suggest that members opposite stop trying to feed off a frenzy of speculation and inaccuracy on this issue, stop dealing with the facts incorrectly, and simply wait until a detailed proposal is put to Cabinet, Cabinet has made a decision and then we will announce it.

MULTIFUNCTION POLIS

Mr CUMMINS (Norwood): Will the Premier inform the House of the outcome of his discussions with members of the International Advisory Board of the MFP which has been meeting in Adelaide?

The Hon. DEAN BROWN: I had the opportunity on Sunday night, together with the Minister for Industry, Manufacturing, Small Business and Regional Development, to have dinner with both the International Advisory Board and the local board of the MFP. It was interesting, because the International Advisory Board had met on Sunday and had the latest update on the MFP and the new direction it was taking under this Liberal Government. There were very eminent people, like Mr Saito, the Joint Chairman of the International Advisory Board, a man who in the past has been highly critical of the direction and the lack of action under the former Labor Government. In fact, after the International Advisory Board went to Melbourne and met with a group of business people in about October last year, Mr Saito was absolutely scathing about the lost opportunity over the past seven years with the MFP. Further, during their stay here last year, they had been to look at the MFP site, and he was scathing of the site.

It is interesting that international board member after international board member on Sunday night acclaimed what had been achieved in the past 9 to 10 months—that at long last the MFP had been refocused and had been given clear specific objectives. There were people such as Mr Saito, who not only came up and commented very favourably to me but also commented to the Minister and other members who were present. Other members of the international board, such as Mr Chung, very favourably commented on the fact that at long last the MFP was making progress and at long last there was a commercial objective. He was amazed at what had been achieved in setting up the computer technology centre at Technology Park. He commended the fact that the Government had gone out and attracted companies like EDS, Motorola and Australis Media, and had set up a real core of activity under the Information Technology Centre of Excellence. Also, they are pleased with the headway now being made on the Australian-Asian Business College.

This year I attended the third dinner, and the Leader of the Opposition was there as well, and no doubt the leader could not help but be impressed with the very dramatic change—

The Hon. M.D. Rann interjecting:

The Hon. DEAN BROWN: The Federal Minister was there too. In fact, the former Minister, Mr John Button, was there, and he came up to me during the meal time and had a discussion and commended again what the new Government had achieved in terms of giving a commercial focus to the MFP and, in particular, what we have done in terms of attracting information technology companies to Technology Park.

Also mentioned was the fact that the urban development about to take place will now be located around the Technology Park site and very much in keeping with it, as well as the fact that now we will have a smart city immediately adjacent to the site which will fit in so superbly with what the Government has been able to attract in terms of IT companies. I thought it was refreshing to see the complete change in attitude. Mr Saito also said to me, 'I was delighted to have met you in Tokyo in January when we talked about the refocus. I was delighted then with what you had set as a new course for the MFP. Now you have achieved it with substance.'

So, the very people who in the past have been most critical of the direction of the MFP and the lack of progress are now suddenly sitting back and saying, 'At long last the MFP is something that is going to come to reality.' There is renewed international interest, particularly in Japan, where I understand about nine companies now have individually expressed interest in coming into the MFP concept and particularly participating in the smart city. I stress that a number of these companies are IT companies because they recognise that here in Adelaide we will have a world-class centre for information technology.

WATER RATES

Mr FOLEY (Hart): My question is directed to the Minister for Infrastructure.

An honourable member interjecting:

Mr FOLEY: Well, you weren't here last Thursday. It is your fault, not mine, if you want to leave it to the Premier to bumble it.

The Hon. H. Allison interjecting:

Mr FOLEY: No, I have enjoyed the last three or four days watching the Premier bumble it. Why did the Minister state publicly yesterday that a user-pays system for water rating would be introduced, given the Premier's statement today in Parliament that no decision has been made about water pricing and no submission has been brought before Cabinet?

The Hon. J.W. OLSEN: Opposition members are slow learners. There is no doubt about the Government's direction on this matter. Last Thursday the Premier tabled in this House the response to the Audit Commission report indicating that the Government had adopted, in principle, the thrust and the direction of the Audit Commission recommendations.

Mr Foley interjecting:

The SPEAKER: Order!

The Hon. J.W. OLSEN: I said yesterday that we would be putting in place, in principle, the Audit Commission recommendations.

Members interjecting:

The SPEAKER: Order! There are too many interjections. The Minister has the call and he will proceed uninterrupted.

The Hon. J.W. OLSEN: The Government's intention is clear. The Audit Commission recommendations indicate a direction which the Government will implement over the course of the next few years. I have said so consistently over the last four days; the Premier has said so consistently over the last four days; and, if Opposition members are patient enough to wait for another month, when the Government will be gazetting its water pricing policy for the next financial year, they will have—

Mr Foley: User-pays in or out?

The SPEAKER: Order! I suggest to the member for Hart that the Chair has been very tolerant.

The Hon. J.W. OLSEN: In summary, let the member for Hart show a little patience.

TOURISM COMMISSION

Mr CONDOUS (Colton): My question is directed to the Minister for Tourism. In the light of the Minister's recent release of the South Australian Tourism Commission's State marketing plan, which was well received by the media, the

public and the tourism industry, can the Minister inform the House of any other positive developments in the promotion of South Australia as a tourist destination?

The Hon. G.A. INGERSON: I thank the member for Colton for his question and his obvious interest in this subject. Along with the release of our program setting out the creation of 10 000 jobs in the industry between now and the year 2000, we also set out a program of expanding the industry from $1.8 billion to $2.4 billion. Part of that program was to involve the private sector in developing South Australia as a tourism destination. We are very happy to say that a recent Western Australian tour wholesaler, Great Australian Tours, has just released, in conjunction with the National Road and Motorists Association, a major brochure which, whilst set up by a Western Australian firm, will be progressed and distributed through Victoria and New South Wales. The whole program is about selling the Barossa Valley, Kangaroo Island, the Clare Valley, the Murray River, Eyre Peninsula and even Whyalla.

The brochure, which also includes information about day tours, is all about selling South Australia, and the private sector is now working with the Tourism Commission to make sure that all of South Australia, including also the South-East, Yorke Peninsula and the Adelaide metropolitan area, is promoted by a whole range of private sector operators. We have also had very significant support from Qantas. It is the first time in seven years that Qantas has sat down with the commission and developed a program of destinations in South Australian, Ansett having done so a couple of months ago.

The commission is talking to private industry—the people who will make tourism in South Australia work and help get the State back on its feet—and by doing so we are now getting all their support in the way of promotional dollars, so that the tourism industry in South Australia is beginning to come alive.

OMEGA PLAN

The Hon. M.D. RANN (Leader of the Opposition): My question is directed to the Minister for Emergency Services. Did the Police Commissioner discuss with the Minister and seek the Minister's views on the details of the Omega plan to deal with the unlawful activities of bikie gangs prior to the release of the plan by the Police Commissioner last Thursday, and does the Minister support each of the 11 components in the plan? Last Wednesday the Minister used the Police Commissioner's name in this House to attack my discussion paper on tackling gang crime, a discussion paper that called, in a constructive way, for increased police powers. The Minister said that a radio report, claiming that the Police Commissioner was about to approach the Minister for increased powers to deal with gangs, was totally wrong. However, the following day the Police Commissioner held a news conference to call publicly for increased police powers to deal with gangs.

The Hon. W.A. MATTHEW: Part of the Commissioner's press release states:

> I have discussed with the NCA and, together with my colleagues around Australia, will address the above at the consultative committee meeting at the NCA soon. I see it as necessary to gain a national agreement with national and complementary State legislation to deal with such criminality.

The Hon. M.D. Rann: What do you think?

The SPEAKER: Order!

The Hon. W.A. MATTHEW: If the Leader is patient he will hear the full answer. I previously outlined in this House—in fact, in response to questioning from the Opposition Leader—that part of the strategy necessary to combat some of the violence in Australia has to be a national one, and the national strategy is focusing on the availability of dangerous weapons in our community, on changing import regulations (and some of that has now occurred), and on changes in each State jurisdiction. I also indicated to the House that the Commissioner and I meet on a regular basis (and still continue to do so) to discuss matters of legislative reform that are necessary to come before this Parliament.

The Commissioner has released a press statement detailing some of the thoughts of the Police Department that have been put together in preparation for the Australasian Police Ministers' Council in December. I stated publicly that those matters have not yet been referred to the Attorney-General and, while I—

The Hon. M.D. Rann: Do you support the Police Commissioner? You're the Minister.

The SPEAKER: Order! The Chair supports the Standing Orders. The honourable Minister.

The Hon. W.A. MATTHEW: Thank you for your protection, Mr Speaker. As I have indicated, the matters will go before the Australasian Police Ministers' Council; any evidence put forward and any legislative change suggested by this State will not be put forward without, first, consultation between me and the Attorney-General and, secondly, the support of this Government. That process has not yet occurred. Some of the issues the Police Commissioner has raised I believe do need closer scrutiny; others I think are questionable, and for that reason it is important that the Attorney-General have the appropriate opportunity to assess the changes raised as potential changes to be put forward by South Australia at the meeting in December.

This Government will undertake the necessary legislative changes. In answer to a question asked previously by the member for Spence, I provided to the honourable member details on notice of legislation put forward as suggestions by the Police Department to the previous Government over a number of years and never actioned, never implemented and never responded to. The Police Department in this State is used to working with a Labor Government that did nothing, did not act on legislation put forward to it, and procrastinated for many years.

We now have a Government that is prepared to tackle changes necessary, but change will not occur until, first, it has been properly worked out through the law offices of the Attorney-General's Department and then it ultimately comes back to this Parliament for consideration. If the Leader wishes to constructively discuss changes in legislation, as I have indicated to him before, my door is open; I am perfectly prepared to talk with him on these issues. What this is not is a case for media grandstanding, as has been undertaken by the Opposition Leader, of the highest proportion. I repeat in this House: the Leader released his so-called 'crime document' without discussion with police.

TELECOM SMALL BUSINESS AWARDS

Mr WADE (Elder): Can the Minister for Industry, Manufacturing, Small Business and Regional Development advise this House of the success of South Australian finalists in the Telecom National Small Business Awards announced in Brisbane last night?

The Hon. J.W. OLSEN: Once again, South Australian business has been successful on the national stage. A company in South Australia was successful in taking out the national award. That company was South Australia's Building and Home Improvement Centre, located on the corner of Anzac Highway and South Road. This company, which comprises a 3 800 square meter centre with some 350 exhibitors, attracts more than 1 500 South Australians a week. In addition to having a comprehensive display of building, decor and garden products, its database indicates the supply of information concerning approximately 85 per cent of the homes built or renovated in South Australia each year.

That success has come from purely an advisory and information centre. It was the unique idea and the brainchild 17 years ago of Adelaide photographer and entrepreneur, Ron Langman, who is currently involved in setting up similar centres across Australia, having already established centres in Melbourne and Perth, with drawings being prepared for a centre in Brisbane. In addition, his scheme and concept is now in joint ventures in New Zealand, South-East Asia, China and South Africa. Clearly, this is another small business operator in South Australia who can compete not only nationally but internationally with an innovative idea.

Not only have we in South Australia been successful in that regard but we have also been successful in attracting another industry out of Victoria to South Australia. Earlier in the year, when we won Motorola, the Opposition said that was a fluke; when we won Australis to South Australia, comments were made that we were buying business. But now, to the list comprising EDS, AWA Defence Industries, British Aerospace, Tomlin Company, SABCO, and the expansion of the Adelaide Aviation College into the world's largest pilot training facility, we can add a decision—

Members interjecting:

The SPEAKER: Order! There are too many interjections.

The Hon. J.W. OLSEN: Hunter Douglas, with sales of $130 million worldwide, has announced its decision to establish two blind-making manufacturing sites in Australia: one in New South Wales, and the other at Royal Park, South Australia. The company makes vertical drapes and venetian blinds sold as products of Luxaflex, Betta Blinds and Burns for Blinds. The company, known as Alody, will increase its staff by 68, that is, from 110 to 178 jobs. The Victorian factory, Dural Leeds, will close its manufacturing arm and concentrate on selling and marketing. South Australia will be the distribution centre for Victoria, Tasmania, Western Australia and South Australia. The Sydney factory will distribute throughout Queensland and New South Wales. Four new brand names will be introduced by the company.

The factory at Royal Park is working towards international standards, and will implement cellular lean manufacturing principles under the guidance of the South Australian Centre for Manufacturing, which I compliment for its negotiations with the company to secure this expanded manufacturing facility for South Australia. Also, the company plans to increase sales some threefold as part of its business plan. The staff of the Victorian company were told yesterday that, from January 1995, the manufacturing operations of the Victorian-owned blindmaker Dural Leeds would be progressively phased out over several months.

The South Australian company will relocate some of the Victorian equipment, but it plans to introduce new computer equipment and to ensure that the South Australian factory becomes one of the best for quality production world-wide, with the support of the South Australian Centre for Manufacturing. In summary, it is yet another success story for South Australia's manufacturing industry, and that means jobs in South Australia for South Australians.

CRIME PREVENTION

The Hon. M.D. RANN (Leader of the Opposition): Can the Minister for Emergency Services assure this House that there is no threat to the continued operation of the special regional response groups, which were set up by the Police Department in March 1991 to tackle hot spots in the northern and southern suburbs? After 12 months of operation, the special flying squads were hailed by senior police and the media as 'one of the most successful operations mounted by the SA Police'. It was reported that in its first year of operations the northern squad, which covered areas from Magill to Two Wells, had apprehended 665 people who were either arrested or reported in relation to 1165 offences, including robbery with violence, criminal damage, drug offences and break-ins. The Opposition has been advised that the continued operation of the regional response groups is now under threat or consideration.

The Hon. W.A. MATTHEW: I thank the Opposition Leader for his question. The short answer to his question is that he is wrong.

An honourable member interjecting:

The Hon. W.A. MATTHEW: Yes; he is wrong again. These are the facts: the very successful Operation Pendulum, which is a 90 police member task force, was formed to target, in particular, property theft, dealing in stolen property and involvement in drugs. That successful operation—

Members interjecting:

The Hon. W.A. MATTHEW: If the honourable member listens, he will find out the facts. That operation drew on the regional response groups to gain part of its numbers. Today I am pleased to be able to report to the House the success of Task Force Pendulum, which commenced on 1 August 1994 and involved some 90 selected police drawn, in part, from the task force to which he refers. The operation targeted house-breaking and robberies, and sought to increase the recovery of stolen property. The operation officially ends today; $132 million worth of property was stolen in the past financial year and, as a result of that operation, 1 080 offenders have been either arrested or reported for 2 707 serious offences, and property valued at $851 796 has been recovered. Approximately $2.5 million worth of crime has been cleared up.

Police are working with my office to determine whether any legislative change may also advantage further clear up rates involving the trading and distribution of stolen property. The role of the public in accepting second-hand and stolen property has been targeted as a crime generator. Now that the operation has concluded, the use of an ongoing task force in many areas of crime, including the ones to which the Opposition Leader refers today, has been considered as part of the Police Department's ongoing crime strategy. There is no doubt that the focusing of 90 trained officers in the one group against specific categories of crime has been an outstanding success. I accept the concern of the Leader of the Opposition that police resources ought to be appropriately concentrated. We have a 90 member task force which, at this time, can be concentrated in other areas, and I will reveal to the House, as the Police Commissioner makes his decisions concerning deployment of personnel, how those members will be used in the future.

PARA DISTRICTS COUNSELLING SERVICE

Mr ASHENDEN (Wright): Can the Minister for Health inform the House of the reasons for the decision by the Health Commission to cut the budget of the Para Districts Counselling Service by $50 000 this financial year and to withdraw all funding next year?

The Hon. M.H. ARMITAGE: I thank the member for Wright for his question about this important matter because the situation is that this Government is striving to provide appropriate services in a severely restricted budgetary situation that it did not create. When we were making our budgetary allocations we looked at the whole system presently being funded by the Health Commission, and we noted that the Para Districts Counselling Service's annual report indicated that 70 per cent of its client contacts were not related to health matters: they were in fact related to financial and legal issues concerning custody and access.

So, the question that I have to ask on a regular basis as Minister for Health is: given the priorities across the system, should health resources be put into financial and legal matters which would be best dealt with by specialists employed by other agencies, in particular the Federal Family Court? The recommendation was made—and I agree with it—that the service was not a priority funding for the health portfolio, given the following facts: the provision of counselling for relationship and marital matters, access, custody and legal issues is available from Relationships Australia, which is the former Marriage Guidance Council and which is subsidised by the Family Court—in other words, another agency; with respect to issues of domestic violence, the Department for Family and Community Services is the appropriate body from which to seek guidance, and it indeed has a Domestic Violence Resource Unit which provides specialist services in this area; the regional community health centres already provide one-to-one counselling and a range of programs, and this Government is intent on stopping duplication; and, further, the Lyell McEwin Community Health Service has a specialist domestic violence worker.

Given those facts, as well as the fact that planning is currently in progress for three northern community health services to amalgamate to form a regional health service early in 1995, we made the judgment that the efficiencies generated as a result of this initiative will increase the funding dedicated to health service provision within that northern region, and negotiations will take place with the Para Districts Counselling Service and the Northern Regional Community Health Service to ensure that their clients in relation to health matters—and who, as I said, make up a very small percentage—receive appropriate services.

I notice that the member for Elizabeth leapt into the press saying that she was both angered and saddened by the Government's profound ignorance and disinterest in matters of paramount importance to the people of the north. I wonder what she felt about her own Party's previous neglect of the northern area's health services, as evidenced by the Lyell McEwin Hospital. When the casemix yard stick was applied to Lyell McEwin—

Members interjecting:

The SPEAKER: Order!

The Hon. M.H. ARMITAGE: —it showed what everyone knew for a long time. It showed something with which her Party failed to grapple—that the hospital in the centre of Labor territory had been under-funded for years. It took a Liberal Government, by the amalgamation of the Queen Elizabeth and the Lyell McEwin Hospitals, to pour money into the northern area and into the Lyell McEwin. So, that is how much we care about it. We looked at the community health area under the previous Government and, despite a decade of neglect, we found that the area in the centre of the metropolitan area was over-funded on a per capita basis. The area to the north, about which I am sure the Leader of the Opposition has an intense interest even though he does not live there, and the areas south had a very poor per capita ratio of spending. In fact, we reallocated that. Once again, our plans are seeing money put where the services are needed most appropriately.

POLICE FORCE

Mr QUIRKE (Playford): How does the Minister for Emergency Services intend to address the problems of alienation and unrest in the Police Force that have been identified by the Police Association, and how will the police fund the flow on of the $8 a week wage rise granted by the Federal Industrial Commission?

The Hon. W.A. MATTHEW: I thank the honourable member for his question. Of course, the honourable member is referring to a sentence in a letter sent by the Police Association to all members of Parliament. I am pleased to be able to report to the House that, unlike the previous Government, this Government has offered the Police Association a regular opportunity to meet with it. In fact, over the past nine months the association has met with me on average at least once a month and has also had the opportunity to meet with both the Treasurer and the Premier.

At my last meeting with the association—with the President, Mr Peter Alexander, and the Secretary, Mr Peter Parfitt—I was advised that in preparation for entering into enterprise bargaining negotiations with the Government it would embark on a public profile which would be achieved through letters to members of Parliament-members now have their letter-through a television advertising campaign promoting the good work undertaken by the Police Department, and the initial film for that campaign is now in the can, and through police officers being encouraged to see their local member of Parliament.

I defend the association's right to negotiate in that way. In a free society such as ours it is important that the police use every avenue at their disposal to communicate their message. In particular, the association raised four issues for members of Parliament. The first involved superannuation, and the association has already acknowledged to me that that issue is now satisfied, both through the Bill that has now been passed through this House and also through the response to the Audit Commission report tabled by the Premier in the House last week. The remaining issues of concern involve country housing in the first instance. Across South Australia police officers occupy 613 houses at a rental payment of $24.50 a week. Rental for public housing is paid to the Government Housing Office and is subsidised by the department, including fringe benefits tax, to the extent of almost $10 000 a house. That is an overall subsidy in excess of $6 million.

The interesting point is that South Australia is the only State in Australia that provides all its country police with their housing needs as part of an industrial agreement. It is that part of the agreement that the Government seeks to amend with the association. Discussions are under way. At this stage we have targeted savings through changes that have

been negotiated and also through changes negotiated through enterprise bargaining. The association has been advised that the door is open. It will have its days around the table. Parameters for enterprise bargaining are being drawn up at this time between the Police Department and the Department for Industrial Relations. I look forward to discussing those issues with the association at the relevant time.

RURAL ASSISTANCE

Mrs PENFOLD (Flinders): Can the Minister for Primary Industries explain what arrangements he is making to ensure that farmers who are experiencing difficult seasonal conditions will qualify for assistance under the new criteria for drought declaration?

The Hon. D.S. BAKER: I thank the honourable member for her question and her interest in the matter. I have reported to the House before that the South Australian Department of Primary Industries has been working closely with Senator Collins to ensure that we have criteria in place that is unique to South Australia in the event that the season deteriorates further. Last Friday, at a meeting of Agriculture Ministers in Adelaide, all States agreed to fall into line with the Commonwealth and seek those unique criteria that will allow them to declare regional drought conditions within their States.

We have been working closely with the Federal Minister in the past couple of months and are further down the line than other States. There was absolute agreement by all States that something should be done, and that is due to the good work of the Premier through a letter he wrote to the Prime Minister. He raised with him the matter of getting regional drought conditions declared in this State, and ongoing work from the department has allowed us to be out in front in this matter. I believe we are getting close to agreement in respect of the South Australian criteria, and we will be able to look at any areas in the State that are in trouble in order to trigger extra assistance for them in the next couple of months.

It is pleasing to report also that, although several areas in South Australia are in a bad condition and in a drought situation, the late rains in October and the general rain we have had across South Australia in the past 24 hours means that many farmers will get out with a slightly below average season, and an average season in some areas, and many of those people, because of increases in commodity prices, will have a much better finish to the year than they thought some months ago. We are trying to target assistance to those areas that are badly affected and hope that we can keep getting these finishing rains that will help South Australia's farmers gradually climb back into profitability.

CHILD PORNOGRAPHY

Mr FOLEY (Hart): What action is the Minister for Emergency Services taking to provide additional resources to police to enable them to stamp out the exploitation of South Australian children by organised child sex rings, as reported in Saturday's media in a story entitled 'Children traded for sex', in which a senior police sergeant from the Victims of Crime Branch said:

> . . . police were aware of some of the paedophiles' victims were as young as four. . . children were also being encouraged to recruit other children for the sex rings.

The Hon. W.A. MATTHEW: The question is a particularly sensitive one and obviously the reply I give in part could serve to identify some of the police surveillance under way at this time. Rather than giving a detailed reply to the House at this time, as it is essentially an operational issue, I prefer to take the question to the Police Commissioner and determine what information can be released to the House legitimately without jeopardising any surveillance under way at this time. It may also be appropriate after I have done that to then invite the honourable member to have a briefing on material that cannot be released because of its sensitivity so that he can be aware of the full situation.

UNIVERSITY PLACES

Mr BRINDAL (Unley): My question is directed to the Minister for Employment, Training and Further Education. Does the proposed reallocation of university places pose any serious threat to South Australia?

The Hon. R.B. SUCH: I thank the member for Unley, who has a long-standing commitment to higher education in this State, for his question. This is a serious matter for South Australia. Earlier this year a joint working party of DEET and the Higher Education Council came up with a proposal not only to cap funding for higher education but to recommend the removal of university places from South Australia. That would have a serious impact here, not only on school leavers but on mature age students who want access to tertiary education. It would also harm our MFP development because, as members will know, we are seeking to create centres of excellence within the university sector, and it would send a bad signal to would-be investors and students that somehow South Australia was not a favoured State and was going to have a contracting university system. So, it is a very serious matter. In fact, the suggestion in terms of the removal of places could amount to 3 000 positions. When we realise that Flinders University has a total of 8 000 students, it is a serious matter indeed.

What has happened in recent times is that we have a gang of 31 Federal Labor MPs in the so-called growth States of Queensland, parts of northern New South Wales and Western Australia getting together to lobby the Prime Minister and others to support this reallocation away from South Australia. This gang of 31 seems to have the support of Michael Lavarch, the Federal Attorney-General, and the member for Moreton, Mr Garrie Gibson. As a result of my discovering this activity and the attempt to hijack higher education in South Australia, I have today written to all senators in South Australia urging them to fight for South Australia—which is their duty—to make sure that South Australia does not lose higher education places and that we are not disadvantaged in the reallocation of funding. That letter has gone out today and I trust that, irrespective of Party affiliation, all senators will go in to bat for South Australia, because this Government does not intend to sit back and allow people in the Eastern States or elsewhere to rip the heart out of our tertiary education system.

I trust that members of the Opposition will contact their Federal colleagues both here and interstate to ensure that pressure is brought to bear to protect our excellent higher education system—the three universities here which, apart from their other contributions, are together worth about $400 million annually in economic output. It is not a matter that we should take lightly. We have the gang of 31 Federal Labor MPs trying to undermine higher education provision in this State. It is up to all of us to fight that, and in particular it is up to the senators to do their duty as representatives of

South Australia to ensure that we do not lose university places to other parts of Australia.

CRIME PREVENTION

Mr QUIRKE (Playford): What action has the Minister for Emergency Services taken to provide additional resources to police to suppress the rise in violence in our society, following the release of statistics which indicate that the rate of serious assaults, which include wounding with intent to cause grievous bodily harm, shooting with intent to injure and assault occasioning actual bodily harm, has increased during the past financial year, despite a press release issued by the Minister which claimed there had been a significant reduction in all levels of crime throughout the State?

The Hon. W.A. MATTHEW: It is with pleasure that I answer this question. Closer analysis of the figures that have been released by the honourable member in this House today also reveals another interesting story. Part of police work is clearing up crimes as they occur. The police annual report details not only crime which has been reported or which has become known to police but also the clear-up rate of crime. What the honourable member did not indicate in the figures he released about serious assault was that in the 1992-93 financial year only 69 per cent of those offences were cleared up. In the past financial year, 73.6 per cent of those offences were cleared up. The deployment of resources to incidents such as these will be focused on clearing up those crimes, bringing the offenders to justice and a visible, focused Police Force that will ensure that such crimes are kept to a minimum.

It is interesting to look at the way in which the Police Force was staffed under the previous Government. The previous Minister for Emergency Services—the Labor Minister—would often stand in this Parliament and claim that South Australia had the highest police officer ratio *per capita* of any State in Australia. That was the claim that was made by the previous Minister. On coming into government, as Minister I naturally asked the Police Department to undertake an analysis of absolutely every position within the department. We found some very interesting things through that analysis. People who were uniformed police officers were undertaking non-police duties. For example, at the Novar Gardens police mechanical workshop, 21 uniformed police personnel are undertaking duties of mechanics, carpenters and transport drivers. By 1 January next year—

Mr Atkinson interjecting:

The Hon. W.A. MATTHEW: The member for Spence might well have heard it all before, but the question has been asked. Those members will become operational police officers by 1 January next year. That automatically puts more police back onto the beat. There were five police officers undertaking duties at Government House. Those five police officers have been replaced by civilian officers from the Police Security Services Division. Those five police officers have been redeployed, one to Hindley Street police station, giving an added city presence, and the other four used to open a new police station at Aldinga, giving a greater presence there.

During 1995, 67 police will gradually be removed from behind speed cameras, again putting those people back to operational duties to undertake the sorts of things the honourable member is talking about. Also, by 1995 we will reach our total of 80 operational police riding buses, trains and trams, a source of much assault on the public on public transport. To tackle that, we are already more than half-way toward our objective, two courses having graduated from Fort Largs Police Academy and one more still there. In short, this Government is doing what the previous Government did not.

GRAND PRIX

Mrs HALL (Coles): Is the Premier aware of further claims about the events which led to Adelaide's losing the Australian Formula 1 Grand Prix to Melbourne? Can the Premier provide the House with any information about these latest claims?

The Hon. DEAN BROWN: Yes; I read with interest a transcript of a TV news bulletin last night which stated that the Victorian Government was secretly involved in negotiations to take the Grand Prix from Adelaide at least 15 months earlier than previously admitted. The documents obtained show that in September 1992 the Victorian Government board began negotiations with the Grand Prix authorities in London to shift the race. In fact, we have checked on the Grand Prix files to see what evidence exists of any indication of earlier negotiations to transfer the race to Victoria. The one startling piece of evidence is minutes of a meeting between Mal Hemmerling as the Executive Officer of the Grand Prix Board and the then Premier, Mr Bannon, on 7 March 1991—18 months earlier than the reference in this TV report. This piece of paper off the file shows quite clearly (27 February 1991, agenda item 6, a minute from Mal Hemmerling to the then Premier):

> Following the initial approach earlier by Premier Kirner of Victoria to meet with you, I was invited to a meeting in Melbourne last week whilst at CAMS in Sandown to meet with Mr Ron Walker to discuss various scenarios on the Australian Grand Prix.

Quite clearly, when Mr Bannon was then Premier of the State, the former Labor Government as early as—

Members interjecting:

The SPEAKER: Order!

The Hon. DEAN BROWN: I suggest that, as he was the Minister responsible for the loss of the Grand Prix, the Leader of the Opposition sit there and listen to the facts. He let this State down very badly indeed. The facts are that, going back to the beginning of 1991, quite clearly the Labor Government of South Australia knew full well that the Victorian Government, under then Premier Kirner, was attempting—

Members interjecting:

The SPEAKER: Order! There are too many interjections. The honourable Premier.

The Hon. DEAN BROWN: Look to the Leader of the Opposition over there, squirming in his seat, knowing that he was the Minister responsible for the loss of the Grand Prix. No wonder he is trying to interject across the House: he knows the burden he carries on his shoulders through the loss of the Grand Prix to Victoria. It has been the Leader of the Opposition who, for the past nine months, has been trying once again to rewrite history. Members opposite tried to do it over the State Bank and now they are trying to do it again over the loss of the Grand Prix. The interesting thing is that, when you look at *Hansard*, you find that, just a week or two weeks after Victoria signed the contract for the Grand Prix on 16 September last year, the Minister then responsible was on his feet in this House day after day, talking about the threat from Victoria to take away the Grand Prix. Why would he have been doing that, I wonder? Then during the election campaign—

Members interjecting:

The SPEAKER: Order!

The Hon. DEAN BROWN: In the middle of the election campaign, when the Grand Prix was on, we had elements of the Labor Party running around at the Grand Prix track on Saturday and Sunday handing out a piece of paper which stated, 'Dean Brown, if he becomes Premier, is going to do a deal to lose us the race.'

Members interjecting:

The SPEAKER: Order!

The Hon. DEAN BROWN: It shows how dishonest the Labor Party is, knowing full well that the deal had already been done in September of last year. No wonder they ran those signs around the Grand Prix track, and no wonder the Leader of the Opposition is trying to rewrite history. Clearly, it is because the Labor Party knew as far back as February 1991 that the Victorian Government, through Ron Walker, was attempting to get the Grand Prix race. What did they do? They sat on their hands and did absolutely nothing.

Mr Clarke interjecting:

The SPEAKER: Order! The Deputy Leader of the Opposition.

An honourable member interjecting:

The SPEAKER: Order! The Chair does not want to have to call the Deputy Leader of the Opposition to order continually. He has had one experience of continuing to talk when the Speaker is on his feet. The Premier.

The Hon. DEAN BROWN: The important thing is that the Grand Prix contract was signed in September last year, the Labor Party knew from the beginning of 1991 that the Victorians were after it, and the blood for the loss of the Grand Prix is on its shoulders.

JUVENILE CRIME

Mr QUIRKE (Playford): Has the Minister for Emergency Services sought urgent advice from the Police Commissioner on reports of the organised theft of designer clothing from children, and what action is being taken to combat this wave of juvenile crime?

Mr Caudell interjecting:

The SPEAKER: Order! The member for Mitchell is out of order.

The Hon. W.A. MATTHEW: If the honourable member is aware of any particular crime and has information to provide to the police, I am sure they would be interested to talk to him. If he has a particular incident in mind and provides me with the details of it, I will obtain a detailed report for him.

HOUSING TRUST CUSTOMER SERVICE STANDARDS

Mr ROSSI (Lee): Will the Minister for Housing, Urban Development and Local Government Relations inform the House why he has introduced customer service standards for the South Australian Housing Trust, and what benefits can be expected from these new standards?

The Hon. J.K.G. OSWALD: A few weeks ago the House will recall that I advised it about changes that I had made to the portfolio of housing and urban development. One of the significant parts of that change was to bring about a separation of the commercial and social objectives of the Housing Trust so that we could provide a better return on the investment which could be reinvested in the Housing Trust and at the same time provide better service.

If we are to be serious about the provision of service, we must have service standards. The Housing Trust, with the assistance of its customers (those who rent its properties), has set down expected service standards. They have been written in a document which is now in booklet form and which is being posted to every tenant in this State. In it tenants will see the standards that the Housing Trust expects to be maintained. There is a lot of detail there. The trust's staff are working towards maintaining and achieving those objectives themselves.

Whilst we are now looking at a better return on capital investment to reinvest in the trust, we can also look forward to far better standards. That is not to say that in the past the Housing Trust has not provided extremely high standards—indeed, we pride ourselves on the fact that we have the best public housing authority in this country—but we now have within the trust, totally supported by the staff, specific standards set down in black and white which our customers can understand and relate to and which everyone in the trust is aiming to keep.

POLICE GREYS

Mr BROKENSHIRE (Mawson): My question is directed to the Minister for Emergency Services. In view of the impending sale of the police Echunga property, which accommodates police greys, will the Minister advise the House whether he is following the program of the previous Government to eliminate the mounted cadre, and will he also guarantee that the police greys will not be sold for pet food?

The Hon. W.A. MATTHEW: I thank the honourable member for his question and appreciate his interest in the police greys and, in particular, the mounted cadre. To answer the second part of the honourable member's question first, I am pleased to advise the House that under this Government police greys will not be finding their way into doggy dins or any other pet food. That practice has now stopped.

The Police Department at present operates an 81.3 hectare property at Echunga which is used to provide specialist training for police officers as well as agistment for horses and to grow feed for those horses. The area used for staff training is 36 hectares of that property, which includes highly specialised weapons training, bomb disposal training, siege training and physical training, and specialised facilities have been developed on the property for that purpose. Some 44.7 hectares is used for agistment and feed growing purposes. However, the Police Department has decided that the police greys can be more cost effectively agisted privately, and it has therefore determined that 44.7 hectares of the Echunga property is surplus to requirements. As a result, this portion of the property will be auctioned as a single allotment on Saturday 12 November 1994, and the greys will be agisted at Bolivar from 4 November 1994 at an annual saving estimated at $71 000.

Officers from the mounted cadre are confident that the private agistment arrangements and associated services will adequately provide for the special needs of the police horses. The welfare of the horses has been considered as the highest priority, with no problems being anticipated through their movement. Indeed, horses susceptible to arthritic conditions will find that the warmer climate and flatter terrain will be to their advantage.

I should also like to focus briefly on the successful day that was held at the Thebarton Barracks, which is the city home of the mounted cadre. On Sunday we saw the first

public open day held by the mounted cadre attended by 8 000 to 9 000 people. The day was in no small way largely a success due to the efforts of police officers—not just from the mounted cadre, but from other areas of the department—who volunteered their time to prepare for the day and for training. I take this opportunity to commend those officers for their actions.

I cannot conclude without also referring to three of the horses which participated on the day. My daughter Vanessa was particularly impressed by police mare Vanessa—a 16-year-old Percheron thoroughbred cross mare. I was particularly impressed by police horse Epsilon—an 8-year-old three-quarter thoroughbred, one quarter Clydesdale cross gelding. Epsilon is in fact the tallest horse in the cadre. I could not help but also notice police horse Foley, a seven-year-old ex-race horse which stands at 16.1 hands.

Members interjecting:

The Hon. W.A. MATTHEW: Police horse Foley is a gelding and is described by the mounted cadre as a horse of easy going nature; I am advised that its training has progressed well to the stage of street patrols. Recently, police horse Foley completed the last stage of nuisance and crowd control training. I realise that the member for Hart is quite excited about this horse. Unfortunately, I have to advise both him and the House that police horse Foley is named after a bushranger, Jack Foley. Bushranger Jack Foley later joined the mounted police force, but it would seem that he has a lot in common with his namesake. I am pleased to advise the House that the mounted cadre is still operating well, having been established in 1838, and will be providing an operational police presence in this State for some time to come.

HOSPITAL SERVICES

Ms STEVENS (Elizabeth): What action does the Minister for Health propose to take to establish an independent body to resolve complaints about public hospital services, as required by the Medicare agreement, and why has he refused to release or act upon the draft discussion paper on this subject prepared by a group under Dr Neville Hicks? Just before the last election, a committee, under the chairmanship of Dr Hicks and comprising a wide cross-section of community and health professional interests, reached consensus on a draft discussion paper on the independent health complaints unit for South Australia. The Opposition understands that the Minister has refused to release this report.

The Hon. M.H. ARMITAGE: The Health Advice and Complaints Office is part of the Health Commission and any body to look at complaints would be part of the commission. As I think most people know—perhaps the shadow health spokesperson does not know—we have released a paper in relation to the reorganisation of the Health Commission and, accordingly, one of the things we will be looking at is where exactly this independent body fits into the whole of the Health Commission picture.

The Liberal Party policy, which again the member for Elizabeth probably would not have read, identifies the fact that we went to the people on 11 December last year saying that we were going to have an independent health body attached to the Ombudsman's Office. The member for Elizabeth might appreciate that, with just a small number of members occupying the Opposition benches, the people of South Australia were clearly in favour of the sorts of things we wanted to do. If the honourable member believes that putting a health advice and complaints organisation into the Ombudsman's Office is not independent and free of influence, I would ask her to take that up with the Ombudsman.

PARKS COMMUNITY HEALTH CENTRE

Mr De LAINE (Price): Will the Minister for Health intervene to prevent the reduction of health services at the Parks Community Health Centre because of Government budget cuts? Since the budget was introduced, I have had discussions with the Minister about budget cuts at the Parks. The Minister was quite confident that the cuts would not affect services in this needy location. However, I have a copy of a community notice which has been distributed within the Parks catchment area. The notice, headed 'Changes to the medical service', states:

> This organisation has had to make some difficult decisions in light of recent cuts to the budget handed down by the Government. In view of this and other factors, some parts of the organisation have had to be rearranged. The medical service is one of them. As of 5 November 1994, the service will not be open on Saturday mornings. The last Saturday that the medical service will be open is 29 October.

The Hon. M.H. ARMITAGE: No.

MENTAL HEALTH

Mrs ROSENBERG (Kaurna): My question is directed to the Minister for Health. In light of the Government's view that most South Australians requiring acute mental health care are best treated in general hospitals, does the Government consider that there is an ongoing need for dedicated secure care for people with a psychiatric disability?

The Hon. M.H. ARMITAGE: I thank the member for Kaurna for this question, which is a particularly important one because there is a common misconception that people with a psychiatric disability are dangerous. Indeed, I would emphasise that that is a misconception. However, some people do require secure care for the sake of the community and, importantly, for the sake of themselves and also for the sake of the people giving them the care. That is the case particularly in the acute phases of a psychiatric illness.

As I think everyone in the House would know, the Government is committed to the areas project, which will see the relocation of mental health services to a local level with much greater emphasis on community support mechanisms. The reallocation and realignment process, which the Government has undertaken, will see the amount of money spent in the community looking after people with mental illnesses doubled this financial year—not neglected as it has been for years by the previous Government—from $7 million to $14 million. I would expect that all members, particularly those in Opposition who routinely ignored the problem whilst they were in Government and who in the past couple of months have requested action to be taken on this matter, would offer congratulations to the Government for having done that.

However, despite the fact that the appropriate place for many people is in the community, some people with an acute psychiatric illness are, as I have said, a danger to themselves, to the people who look after them and to the community. So, Brentwood, which is a unit of Glenside Hospital, is to have $1.5 million spent on it to upgrade it to a high security complex which will take adults from throughout the State and focus on the assessment, diagnosis and short-term treatment of the acute psychiatric disorder. Obviously, there will be very high staffing levels, and so on. This redevelopment has been planned for some time. Whilst it will address matters raised in the Coroner's report into the unfortunate death of a

psychiatric inpatient earlier this year, it is not related to that report in any way but it will address a number of those matters. So, we are particularly committed to the national mental health strategy and to the process of winding down specialist psychiatric hospitals, and everything we have done will see that happen as soon as it can occur.

GRIEVANCE DEBATE

The SPEAKER: The question before the Chair is that the House note grievances.

Mr FOLEY (Hart): I would appreciate it if the Minister for Health would come with me to Semaphore one day to examine the acute mental health problem we have there and see the atrocious conditions with which mental patients in my electorate are left to fend for themselves. I would appreciate the Minister's taking up my invitation to join with me on a stroll down Semaphore Road in the very near future.

I also want to make just a very brief comment about an issue that I will take up next year. This Parliament must be one of the only institutions, organisations or businesses that were working during the running of the Melbourne Cup. I would hope that next year members may see fit for us to suspend Question Time for a brief five minutes to watch the Melbourne Cup race. I think the lack of opportunity provided to see the race is indicative of the wowser element in this Parliament. I would ask all members to consider next year that perhaps we could enjoy watching the pre-eminent race meet of this country. Given that we sit in this Parliament sometimes until the early hours of the morning, I do not think that an indulgence for some 10 minutes to watch the race would be at all out of the question. That is not what I have risen to talk about today, but I put members opposite on notice that I will raise that matter next year and we can have a lively debate. I will work the numbers in the Liberal Party to see that the member for Newland does not win her way on this issue next year.

I want to talk today about water rates. Last week the Government tabled its response to the Audit Commission and accepted recommendations for a new water pricing policy.

Mr Meier interjecting:

Mr FOLEY: What outrage—about water rates? Members opposite are saying it was a beat up. These recommendations include the following matters: to restructure tariffs, to increase access charges and decrease the price per unit consumed, remove the free water allowance, eliminate cross-subsidies to country and from metropolitan to industry, and adopt the user-pays principle. On Saturday, 29 October the media reported the Premier as saying that, while the general principle of user-pays had been embraced, he was particularly opposed to the reduction of the subsidy to country users. The Premier warned, however, that major users of the water and sewerage systems were paying too little. The Premier said:

> Industry that puts a lot into the sewerage effluent system should be paying more than others. They will pay for that use, and they will pay heavily.

Then, of course, the Minister for Infrastructure returned from Perth, instantly went into damage control mode, and on Sunday denied that the Government has done any more than agree in principle with the Audit Commission recommendations, and he said that over some time, perhaps five to seven years, the Government would look at some of these points. Then again, we have the Minister for Infrastructure on ABC news last night saying, not in principle but, 'We will introduce the user-pays water rating system.' Not maybe, not in principle: 'We will.' In the Parliament—

Mrs Kotz interjecting:

Mr FOLEY: I was talking about water; listen carefully. The Premier said today that no decision had been made, nothing had been taken before Cabinet: 'We're simply going to look at the recommendations.' Then the Minister for Infrastructure rises and says, 'Maybe we will consider this. We may not necessarily go all the way.' But, on the previous night's news, he said, 'We will introduce a user-pays system.' There is mass confusion in the Government on this issue, and the hypocrisy of the Liberal Party is yet again highlighted. A matter of three or four years ago this Government, when in Opposition, derided the former Labor Government when it looked at a number of options available as regards water rating, and it adamantly argued against any form of user-pays. Now they are in Government it is a different story, and they want to introduce it. So, the hypocrisy of members opposite is no better evidenced than the instance we are seeing at present.

The point I am clearly making today is that we have seen from the Premier in the past three or four days a Premier who has not done his homework and has not read his briefing papers correctly or checked the substance of what he tables in this Parliament. If he had done so, he would not have made the mistakes he made on Thursday and Friday and would not have had to put his Government into damage control for three or four days.

Mrs Kotz interjecting:

Mr FOLEY: I do not need coaching from the member for Newland: I think I can handle it quite all right on my own.

Mr BRINDAL (Unley): The member for Hart is eloquent testimony to the soundness of the user-pays principle. I would remind all members that if we introduce the user-pays principle for sewerage we might hear less from the member for Hart.

Mr FOLEY: On a point of order, Mr Speaker, I understand under Standing Orders it is inappropriate to reflect on other members of this House, and I ask that you rule accordingly. I was deeply offended.

The SPEAKER: Order! The honourable member is correct: it is contrary to Standing Orders to reflect on another member. The Chair's attention was temporarily distracted. Could the honourable member advise what was the reflection?

Mr Foley: I think he referred to me as sewerage.

Mr BRINDAL: I did not.

The SPEAKER: Does the honourable member for Unley wish to withdraw the comment?

Mr BRINDAL: If he wishes to consider himself a member of the effluent society, that is his business, but I made no such suggestion.

Mr FOLEY: I rise on a further point of order, Mr Speaker.

The SPEAKER: Order! Would the honourable member resume his seat. I ask the member for Unley whether he referred to the member for Hart as sewerage.

Mr BRINDAL: I just said 'No' clearly.

The SPEAKER: In that case, I ask the honourable member for Unley—

Mr FOLEY: Mr Speaker, I take a point of order on the member for Unley's follow-up comments that if I was happy to be a member of the effluent society that was fine by him. I think that, again, is a reflection.

The SPEAKER: The second comment to which the honourable member for Hart has objected may be unwise but is not unparliamentary. The honourable member for Unley.

Mr BRINDAL: Before Benjamin Franklin died he wrote these words to be his epitaph:

The body of
Benjamin Franklin, printer
(Like the cover of an old book,
Its contents worn out,
And stript of its lettering and gilding)
Lies here, food for worms!
Yet the work itself shall not be lost,
For it will, as he believed, appear once more
In a new
And more beautiful edition,
Corrected and amended
By its author!

The measure of any society—and I do not know to whom this may be attributed—is the way in which it buries its dead. Indeed, it was said, 'If we look at any society and the way in which they bury their dead, I will show you a measure of their civilisation.' It is on this matter that I wish to grieve today.

While Australia in the 1990s prides itself on being a modern and multicultural country with diverse ethnic origins and faith, nevertheless we continue to bury our dead using rules which are, at best, rooted in a Victorian concept of Christianity. We who would be loud in the rights of other people with respect to their religious customs and practice, and that is often very closely interwound with the way that we bury the dead according to our particular customs, make no allowance for the pantheistic type mythologies of our Aboriginal people, nor for Muslims, nor in particular for Buddhists.

Some time ago when the factor of mausoleums was brought up in this State there was a great outrage from the general population claiming that that was not suitable to the way things were done here, and we find this in a lot of instances. Similarly, while we continue to bury our dead in traditional cemeteries, many of those cemeteries are neglected. Going into them, one finds toppled tombstones, some of which have been desecrated, weeds and a general lack of care. I would hope that during the course of this Parliament we would look at concepts such as mausoleums. I for one believe that there is a place for them, and I believe that the concept of mausoleums could be used to rehabilitate some of the quarry sites on the hills face zone; that by establishing mausoleums, if they are carefully covered over and revegetated, we would provide for a way of entombment not currently provided for and at the same time enhance an eyesore and a landscape.

Similarly, I would like to see the introduction of restoration of part of the hills face zone as a cemetery, but a cemetery dedicated to the revegetation of the hills face zone: in other words, a concept similar to that which exists in part of Centennial Park, where trees could be planted, a bushland landscape re-established and at the same time the ashes or remains of people buried there quite close to the city. There is a problem with burial: no-one wants a cemetery next to them; everyone wants it somewhere else.

The ACTING SPEAKER (Mr Bass): Order! The honourable member's time has expired. The honourable member for Elizabeth.

Ms STEVENS (Elizabeth): Following the Minister for Health's reply to the member for Wright during Question Time, I feel it is very important for me, once again, to talk about the Para Districts counselling service. The Minister's reply really illustrates his complete misunderstanding of the issues involved in primary health care, in preventative health care. His glib reply to that question, saying that the Para Districts counselling service was not a health service, that it provided financial counselling, that matters relating to legal issues could be handled by the Family Court and that matters relating to domestic violence could be handled by the Family Court and by the police shows a complete and utter misunderstanding of the complexities of the issues and the far reaching effects on the lives of people, not only in the northern area but across our whole State.

As I said in a previous grievance debate, the financial counselling aspect dealt with by the Para Districts counselling service is provided through a Federal grant; it is not State money. I have been contacted by many people in relation to this issue, and a local GP has written stating, in part:

> I cannot speak highly enough of the standard of service provided and I would rate this organisation without exaggeration as being the most useful of all of the paramedical groups available in the northern districts.

Even more moving is the letter written to the Minister himself by the Elizabeth-Munno Para Churches Ecumenical Working Party. This letter, written on behalf of 16 workers from the Anglican, Catholic, Uniting, Lutheran and Presbyterian Churches, states:

> In the last few years it has serviced over 3 000 people each year and thus prevented enormous costs to the health services in this State. The cost to the State Government for the year 1994-95 would have been $211 151!

Peanuts! The letter continues:

> Surely that is cost effective health delivery when you consider the enormous cost of servicing marriage and family breakdown, child abuse and the physical and mental illnesses that occur when counselling services are unavailable or inaccessible when they are needed. Our continuing contact with our people make us very aware of these realities. The Brown Liberal Government has professed itself to be strongly committed to the sound financial management of our State. It has also committed itself to encourage the work of community health services. Minister, our meeting could only conclude that you have not been sufficiently briefed on the effective, economical, community-based services already in place through the Para Districts Counselling Service.

The letter goes on:

> If the Para Districts Counselling Service is to close we need to ask: where will those 3 000 people who have attended each year go? Where do we as pastors in this region send people in serious need of counselling? Exactly how is the Northern Community Health Service to cater for these people? Where will they be located? What will it cost to expand their services? And how will these costs be met? Will the clients have to pay?

The letter asks many other questions. In effect, the Minister has cut off an extremely valuable resource by saying that it is not a health resource. One would have expected that, if the Minister believed that, he would have made some approach to the centre earlier in the year and said, 'We have a problem; we need to seek funding elsewhere'. However, that did not happen. The first thing the service heard about this was three or four weeks ago—after the budget—when it was told that

its funds would be cut by $50 000 and, thereafter, cut off completely.

The Minister said that the counselling aspect of the Para Districts service would be taken up by the Northern Suburbs Community Health Service, and the assumption he makes is that this body will be able to fund these positions from savings achieved through amalgamation of other community health centres. The reality is that most likely the savings will be used only to fill currently frozen positions and that there will not be any savings. The reality is that the Minister has said, 'This service is not important; it is not a health service; we are not interested; we are not funding it.' That is the truth of the matter. Unfortunately, the Minister continues to deny this but will not front up to the people concerned to discuss it.

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

Mr LEWIS (Ridley): During the course of a grievance debate last week I drew the attention of the House to the particular new technologies that have developed in South Australia in recent times. One that was most exciting to me, and has the prospect of being worth billions of dollars a year, is the use of germs, bacteria, microbes, call them what you like, to control other pests of agricultural crops and insects which are a problem to humans and/or their living environment and which may not be insect pests of crops. Using germs for this purpose, of course, has the enormous advantage of ensuring that the environment in which we produce such crops and in which we live remains absolutely free of chemicals and/or any undesirable effects those organic substances made into such chemicals used as pesticides may have on us and our surroundings.

To my mind, that has been the greatest concern since the book *Silent Spring* was written, drawing attention to the consequences of continued reliance on chemicals of greater and greater toxicity, longer and longer persistence in the environment and, therefore, the greater and greater likelihood of their being detrimental to us and the other plants and animals upon which we and all other life depend. Using microbes for this purpose is easily the most sensible and sustainable course of action to follow, not just because of the good reason that I have given about its being likely to ensure that our environment remains free of the risk of degradation generation after generation for the next millennia through which we hope the human civilisation we have helped create will endure but also, if not more importantly, it reduces the cost of producing new chemicals to which resistance is developed by the species that are affected and thereby reduces the cost to society of producing the things it needs to feed itself, clothe itself and provide itself with shelter from the elements.

That, to my mind, is at least as important as having a clean environment. It means that more and more people can afford the benefits to be derived from applying other known technologies to the improvement in the way we use any given area of land—each acre, and getting an increase in the yield from that acre. I refer, in particular, to the invention that came from the innovation of Dr David Cooper, under the supervision of Professor Dudley Pinnock, at the Waite Institute, who was formerly the head of the Department of Entomology, which is now the Department of Crop Protection, which is a bit of a misnomer in a sense because not all insect pests are pests of crops—many of them can be pests of animals.

In this case, the research that has been done by Dr Cooper, and the practical development of the consequences, shows that sheep blowfly and sheep body lice can be controlled by one strain of bacteria, a bacillus, which is the same group of bacterium used, for instance, by the dairy industry in the production of cheese and which is not harmful to humans or other higher animals at all. This strain of bacillus can and does control the sheep blowfly and the sheep body lice very effectively—indeed, at least as effectively as any of the best chemicals, and it is at least as enduring in its persistence in the fleece as any of the best chemicals for that characteristic.

If we go down this path we will have, for ourselves, a very much better future and, for South Australia, the prospect of continuing to be a world centre of excellence for these environmentally friendly scientific developments in technique and disease control in our agriculture. It has wider implications than that: it will enable us to control the anopheles mosquito, which spreads malaria, and that could be worth billions of dollars and save millions of lives over the next few decades as we get into difficulties with medication resistant strains of malaria.

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

Mr CLARKE (Deputy Leader of the Opposition): I rise to my feet to outline my concerns with respect to the proposed Collex Waste Treatment Plant (the former British Tube Mills site) at Kilburn. There has been an ongoing saga between the Government, the Enfield council and the residents of Kilburn for several months. The Enfield council has taken the proposal for the Collex Waste Treatment Plant to the Supreme Court, where it has not been resolved because, on each occasion, the company has withdrawn its application. Basically, the council is hoping that its application will succeed not so much in the courts but by direct Government intervention through specific legislation, which will enable the plant to go ahead.

The residents of Kilburn are, quite rightly, concerned about the potential for very odious odours to permeate throughout the suburb of Kilburn as a result of the establishment of that plant. Whilst they have received a whole range of assurances from the Environmental Protection Authority and a number of other Government authorities that odours will be, if at all present, strenuously filtered, and that the residents will not be inconvenienced by that new development, nonetheless they have genuine concerns. As their local member, I took the opportunity last Friday to spend some time outside the electorate—still within the Enfield council area—at a number of plant sites which have been the cause of so many noxious odours spreading across the Kilburn and Prospect areas of my electorate.

I went to Master Butchers Ltd at Dry Creek, Jeffries Garden Centre, which is in the Dry Creek-Wingfield area, and the Inghams chicken processing plant. I congratulate the inspector, Mr Charles Buhagia, of the Environmental Protection Authority, who helps administer the Clean Air Act and who took my electoral assistant and me with him. Master Butchers and Inghams carry out rendering processes, and after spending just half an hour at Master Butchers Ltd I must say that—and I am not criticising the company; it is the nature of the plant—I felt nauseous, and I felt that way even when I left. The smell was terrible and, depending on the way in which the wind is blowing, that smell can go straight across to Kilburn and parts of Prospect, which is low lying country.

Likewise, while Jeffries Garden Centre has made tremendous steps forward in reducing the odour from its composting heaps, nonetheless, depending on the flow of the air, those odours drift across to my electorate. The same can be said of the Inghams factory. The point I am making is this: despite all the strenuous attempts by those companies, ably supported by the Clean Air Authority inspectors, a terrible odour comes across my electorate. Looking at the proposal by the Collex Waste Treatment Plant, notwithstanding the fact that it gives my constituents a whole range of assurances that nothing will happen to them and that the company has all these wonderful charcoal filters, I doubt whether that can be seen to come into force. In fact, it will fall well short of what the company says it can do, and that will only further depress my area and region.

The people of Kilburn do not want the plant; the number of extra employees that the company may recruit is relatively small; and the Government is seriously wrong if it wants to make it a *cause celebre* by saying that we want to hang out our shingle that South Australia is open for business by ensuring that we can cut through the red tape on development planning applications and the like, to insist that this waste treatment plant be placed at the former British Tube Mills site because, at the end of the day, that will not send out the right signals to industry because there will be a massive fight from the constituents.

The ACTING SPEAKER: The honourable member's time has expired. The member for Kaurna.

Mrs ROSENBERG (Kaurna): I rise today to congratulate the Noarlunga Volunteer Service, which had its tenth birthday celebrations last week. I had the pleasure of launching its 10 year history book and also the new logo for the volunteer service. Before talking about the service, it is important to put on record the objectives that it has in the community, and they are: to encourage voluntary citizen participation within the community service program; to coordinate the matching of skills and interests of potential volunteers with organisations that are able to utilise their skills; to provide an essential resource centre and community service for recruitment, registration training and placement of volunteers into community programs; to provide a focus of support for volunteer coordinators in the southern area; and to promote and maintain a mutually acceptable standard of volunteering by volunteers, organisations using volunteers and the Noarlunga Volunteer Service through training courses, seminars, public speaking and media promotion.

The reason I thought it was important to enunciate those objectives is that the Noarlunga Volunteer Service strikes me as being one of the most professional units with which I have had the privilege to be associated. Its history book records in writing a very important description of the past 10 years of the service. It talks about the beginnings of the service in December 1983, when the first subcommittee was formed, to determine whether volunteering was actually needed in Noarlunga. After that, a steering committee met and it applied for funding. The first office was opened in 1984 at Port Noarlunga in Football House. It held its first annual general meeting, at which it had 90 registered volunteers and 27 registered organisations. In April 1986, Kay Hefferan was appointed as coordinator/manager of the service, and I want to pay particular tribute to the activities of Kay Hefferan, who is a fairly dynamic person and who keeps the service running in a very efficient way. She is very well liked by the volunteers and does a great job to promote volunteerism in the Noarlunga region.

In October 1991 the service moved to the Noarlunga Health Village in Noarlunga Centre. Those who perhaps are not familiar with the Noarlunga area would not know that the Noarlunga Health Village is a particularly good service because it amalgamates the whole range of health services within the Noarlunga area. It is a professional service and a great location for the volunteers. In 1992, it made the landmark one thousandth volunteer registration, which is a real asset to the community. Also, the first conference that was hosted by the Noarlunga Volunteer Service was held, and it was called 'Unemployment and Volunteering—Facing the Challenge.' In April 1994 it had 1 680 registered volunteers at its 9th annual general meeting, and that was a huge result in terms of the growth of that volunteer service.

It is important for me to register my appreciation for the Noarlunga Volunteer Service because I have a particular philosophy about volunteering and how important it is in the community. You only need to talk to volunteers and hear the sorts of words that they use to describe their contribution to the community to realise how important it is for people to remain involved as a volunteer when they are out of the work force. They use words such as insight, experience, commitment and participation, and all those things are extremely important.

The volunteer service must be recommended to the people of Noarlunga; if they have spare time and they want to be involved in the community, it is a great way to do that. Some of the ways in which the service helps the community is through a Leisure Buddy program, in which volunteers work with the IDSC and extend an opportunity for intellectually disabled people to meet new people and to try out new leisure activities in the Noarlunga area. It also trains drivers for the community bus service, and it offers a Shopping Buddy program, which provides opportunities for disadvantaged groups—particularly those with disabilities—who need help with their shopping. Also, I pay tribute to a lady called Kristy Hanna, who voluntarily designed the new logo which, although I cannot display anything in the House, I can tell members is an exciting new logo for the service.

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

CONSUMER CREDIT (CREDIT PROVIDERS) AMENDMENT BILL

Received from the Legislative Council and read a first time.

MOTOR VEHICLES (CONDITIONAL REGISTRATION) AMENDMENT BILL

Received from the Legislative Council with a message drawing the attention of the House of Assembly to clause 7, printed in erased type, which clause, being a money clause, cannot originate in the Legislative Council but which is deemed necessary to the Bill. Read a first time.

NATIVE TITLE (SOUTH AUSTRALIA) BILL

Adjourned debate on second reading.
(Continued from 19 October. Page 701.)

Mr CLARKE (Deputy Leader of the Opposition): My second reading contribution today will cover not only the Native Title Bill but also the other Bills that will be debated both today and tomorrow dealing with amendments to the Mining Act, the Environment, Resources and Development Court Act and the Land Acquisition Act. I do that on the basis that the issues concerning native title matters are interrelated through all four Bills and can be covered in the second reading speech that I now propose, and that the time of the Parliament can be best used in Committee to debate the various amendments which the Opposition is putting forward for the House to consider and which were distributed just a few minutes ago.

The ACTING SPEAKER (Mr Bass): Is it the wish of the House that the principle of the four Bills be discussed as one but that the questions be put separately?

The Hon. S.J. BAKER: We have reached agreement with the Opposition that we will have a cognate debate. We do not need a formal motion for that as an agreement has been reached that we will debate all the issues associated with the four Bills, which are based on the same principle, but we will go into Committee separately on each Bill.

Mr CLARKE: As we all know, the Government's legislation flows from the Commonwealth Government's Native Title Act 1993 and that Act in itself arose out of the Mabo High Court judgment of June 1992. It is well worth our time to look at the Mabo decision, because it forms the crucial backdrop to the State Government's legislation that we are now considering. Unfortunately, at the time of the Mabo decision there were a number in our community who regarded it as an obstacle placed in Australia's path rather than as an opportunity to right the wrongs of the past concerning the treatment of our indigenous people and as an opportunity for a constructive reconciliation between black and white Australians.

The Mabo decision judgment was the culmination of 10 years of litigation, both in the Supreme Court of Queensland and in the High Court of Australia. Eddie Mabo and four other Murray Islanders, from the Torres Strait, argued that the colonisation of the island by Queensland in 1879 did not extinguish native title. The High Court in its judgment of 3 June 1992 on that claim overturned the previous common law doctrine of *terra nullius*, that is, that at the time of European settlement in 1788 the land was owned by no-one despite the indigenous population having lived on the land literally for tens of thousands of years. Whilst recognising at common law the land rights of the Murray Islanders, the High Court did not spell out or define the common law as to how it should be applied elsewhere in Australia. This led to a number of concerns being expressed by miners, pastoralists and others in our community who were anxious that there be certainty provided with respect to various land titles, be they mining tenements, pastoral leases and the like.

Unfortunately, at the same time many Australians became frightened that their own freehold quarter acre block was under threat. That was never going to be the case but, because of the poor level of understanding of a very complex High Court judgment, confusion and fear reigned supreme in some quarters, fanned I might say by some very conservative State politicians for their own perceived political benefits. Prime Minister Keating at Redfern in December 1992 made a speech which was to become a defining moment in the relationship between black and white Australians. He set out a program of consultation with all Australians which was to culminate according to his timetable with the Commonwealth Government's legislating by the end of 1993 to enshrine the Mabo judgment and provide for the certainty that could be guaranteed only by legislation rather than the common law of the High Court to be developed on a case by case basis, which has been costly and time consuming for everyone.

In doing so, the Prime Minister rejected the pleas of the reactionaries of our society who would have had him legislate to overturn the High Court's decision to re-establish the nonsense of the doctrine of *terra nullius*. In his speech at Redfern the Prime Minister said that, if Australia was to be a first rate democracy, it had to enshrine the High Court's judgment in law and that 'Australia was all about justice and a fair go for all'.

The Mabo judgment and the subsequent passage of the Commonwealth Native Title Act allows all parties to now negotiate as equals. It is necessary for the States to pass complementary legislation. Some States, such as New South Wales and Queensland, have passed mirror image legislation to that of the Commonwealth and have sought to establish their own arbitral tribunals to determine land claims. Unfortunately, Western Australia has gone reactionary and sought to undermine the Mabo judgment and the Commonwealth legislation with its own legislation, and has taken the Commonwealth's legislation to the High Court.

The South Australian Government's position is, I fear, somewhat akin to being just a little bit pregnant: accepting the Mabo High Court decision but taking exception to certain parts of the legislation and introducing its own legislation which, in many respects, will only further confuse those in our community who have a vested interest in certainty—miners, pastoralists, Aboriginal groups and society generally. The Opposition will support the second reading of the legislation dealing with these issues. However, we will be seeking to insert amendments into each of the Bills in the Committee stages. If our amendments are not substantially agreed to, we warn the Government that the Opposition will need to consider whether the Bill should be opposed at the third reading, and I flag now that our Party in another place will move similar amendments there and will seek the support of the Australian Democrats.

South Australia is unique compared with most of the other Australian States and certainly the Commonwealth sphere in that for the past 20 years or so we have enjoyed largely a bipartisan approach to Aboriginal issues. On other occasions I have pointed out that that bipartisan support led to landmark land rights legislation in Australia, namely, the Pitjantjatjara Land Rights Act 1981, which was brought to fruition by a Liberal State Government under Premier Tonkin, although much of the work leading up to the passage of that legislation had been conceived and executed during the Dunstan and Corcoran Labor Governments. The Maralinga Tjarutja Land Rights Act 1986 was likewise supported by both Parties, as was the establishment of the Aboriginal Lands Trust.

On behalf of the Opposition, I sincerely want that bipartisanship to continue. It is vitally important to the fabric of our society that neither of our major political Parties seek to exploit for Party political gain the race issue. It would be both morally wrong as well as doing a great disservice to our State and our nation if we sought to exploit relationships between Aboriginal and non-Aboriginal Australians where

at times tensions do arise. Therefore, I appeal to the Government to view our amendments as a constructive attempt on our part to improve its legislation and to seek to accommodate them as best it can so that the interests of all South Australians are served.

I will elaborate at more length in Committee, but I want briefly to state the Opposition's major concerns in respect of these four Bills. In Committee I will raise matters of a technical or drafting nature rather than philosophical differences between the Government and the Opposition. There are five major areas of concern, the first being recognition of the Aboriginal Legal Rights Movement as a representative Aboriginal body with respect to the Pitjantjatjara and Maralinga Tjarutja lands. From discussions I have had with the Attorney-General's office, I believe that that may not be an issue between us: I understand that the Government will give the Opposition some assurance that the Aboriginal Legal Rights Movement will be recognised by regulation once the Bills are enacted into law, following the same course as in relation to the Commonwealth Native Title Act. If the Government is able to give us that assurance during the proceedings today in particular, that will satisfy us.

We also have concerns with clause 4(5) of the Native Title (South Australia) Bill with respect to the definition of 'native title'. It is our belief that the Government's making a declaratory statement that the mere existence of pastoral leases extinguishes native title does not necessarily make it so and that this Parliament should not pass legislation which purports to the general public to mean something when the High Court of Australia may rule somewhat differently. I referred to the bipartisanship which has been displayed for the past 20-odd years on Aboriginal issues in South Australia.

If we go back a bit, we see that South Australia, Western Australia and the Northern Territory were unique among the other States: from the late 1840s until 1989, every pastoral lease in South Australia had a reservation attached to it to the effect that the granting of the pastoral lease did not deny traditional use of the land by Aboriginals in terms of their hunting, gathering, fishing and right of access to those lands. That issue is felt very strongly by the Aboriginal communities in South Australia: notwithstanding the State Government's declaration in its Bill that the existence of pastoral leases extinguishes native title, they believe that the existence of those reservations on the leases does not extinguish native title.

We in this Parliament can say whatever we like in terms of whether or not we believe that to be true. The fact is that it will be the High Court of Australia that will determine that issue. I do not believe it is good law for this Parliament to pass legislation stating that something is true and correct when we in this House know that that is a live issue which is subject to debate and which ultimately will be subject to determination by a higher authority. I appreciate the comments of the South Australian Farmers Federation on this matter: it recognises that this is a live issue and something which ultimately will be determined by the High Court of Australia, but it wants to be able to say to its own membership, its own constituency, that the Bill is like a comfort blanket in that it provides that pastoral leases extinguish native title.

However, it is not being open and honest with people. If we were honest with these pastoralists who fear for their land—in many cases, quite unreasonably—we would say , 'It is no more than a declaration. The matter will go to the High Court and, notwithstanding whether you are feeling comforted today, in 12 or 18 months there may be a decision that throws out all your plans. That may or may not happen; there is that risk.' Why should we pass legislation that conveys a false impression?

The next point is the right to negotiate procedures under new part 9B inserted by the Mining (Native Title) Amendment Bill that will also be discussed today. As I read it, the Commonwealth legislation provides that, if a miner wants to be granted a tenement, before they can approach the Government for the issuing of a licence, they have to establish whether there are any native title claimants or native title holders regarding the area they want to mine or prospect. They must do all the work first, including if necessary seeking a declaration from the Federal tribunal as to whether there are any native titleholders; having established those procedures and having gone through the negotiation processes with those persons who are legitimately found to have an interest, they can apply for a licence. The State Government's response to that is the reverse—to turn it around and say, 'We grant you the tenement, but it is illegal for you to mine until you have gone through all the process of establishing who are the native titleholders, entered into agreements with them or whatever.'

The Opposition's concern does not relate to companies such as Western Mining Corporation; let me make that quite clear. It is a large and significant company; it is in the mining game for the long haul; and, as best as it is able, it will abide by the laws of the land and seek to follow them rigorously. Our concern—and I know it is shared by many in the Aboriginal community—is that, rather than Western Mining Corporation, there will be a number of small miners who do not have the infrastructure around their own operations or even the necessary knowledge to engage in those sorts of exercises as a prerequisite to their being permitted legally to mine or prospect in their area and who will simply say, 'Let's hop in now. This is the piece of land we want to prospect. Let's go away and do it; we will worry about the niceties of the law at a later date—and if we are caught.' As we know, South Australia is a large State and there are many isolated areas: the chances of Mining Department officials and the like catching red handed some of these people doing their work illegally are probably remote. So, rather than that approach, the Commonwealth Government's approach should be followed.

We also say that the Commonwealth Act has this scheme of arrangement whereby, if the State Act is inconsistent with the Federal Act, we suggest there is a very good chance of illegality occurring, because Federal law will prevail over State law. Whilst at the end of the day this legislation will need to be given the big tick by the Commonwealth Government—and there is no certainty that will eventuate—nonetheless, we will probably have a number of Aboriginal groups taking this matter to the courts to determine whether the State legislation is consistent with the Federal legislation with respect to the procedures for mining; that is, does one grant the tenement first—

The Hon. S.J. Baker interjecting:

Mr CLARKE: That is the critical issue. I am no constitutional lawyer, but there are grave elements of doubt. I understand that the purpose behind the legislation when it was introduced in this House and from the Premier's ministerial statements is to try to avoid doubt and to create certainty. The Opposition wants certainty. We want miners and pastoralists to understand their legal rights in all these areas. We do not want State Parliaments passing laws which

ordinary citizens can pick up and view and quite rightly say, 'If that's what the Parliament of South Australia has passed, that must be law and I will carry on that way,' when we know that these issues are still very much in doubt and will ultimately have to be resolved in the High Court, as with the Western Australian Government's challenge to the Federal legislation.

I understand from my discussions with the Chamber of Mines (albeit very briefly over the telephone the other day, for reasons to which I will come later), that it is not particularly worried about the pace with which this legislation is carried through Parliament. It understands the constitutional difficulties that its members could face if this legislation goes through unamended. It realises that there are challenges in the High Court on this matter and it would rather wait for those High Court judgments to be handed down so that everyone knows what the playing field is in respect of these contentious matters. Again, this Parliament can pass the legislation as drafted by the Government, but it does not matter: the mining industry will not rush in and invest millions of dollars tomorrow if we pass this legislation, because it knows that constitutional doubts exist. Therefore, it will not risk spending months and, in particular, millions of dollars only to find that it does not have valid title.

Another point relates to the ability for miners to enter into conjunctive agreements or determinations with native title claimants. As I struggle to come to grips with some of these terms I will try to explain what I mean by them because they will be used a lot in the Committee stage. I understand that conjunctive agreements are agreements entered into which go from the point of exploration to the point of mining operations. Such conjunctive agreements are likely to be rare. Very few miners, to my knowledge, would want to enter into such an arrangement when in the main all they want is to go onto the land, prospect, find out what minerals are in the area at which they are looking, how rich the lode is, the costs associated with extracting them and the market that could be obtained for them before they work out royalties, employment opportunities for Aborigines and a whole range of other things that would have to be taken into account at the stage where a company believes that a mining operation is viable.

A disjunctive agreement, as I understand it and as I am sure the Deputy Premier understands it, is one which relates simply to the exploration side of the business first. Our concern and that of a number of Aboriginal communities is that, where native title claimants are in dispute, this kind of situation could eventuate: the mining company gives notice to find out whether there are any native title holders or claimants in the area with which it is concerned and, for example, 25 hands go up. There may be 25 claimants at the end of the two months period of notice to establish whether there are claimants in a particular area. The mining company may pick one of those 25 with whom to make an agreement, because it may believe that it can strike the best bargain with that particular person. However, the other 24 may say, 'We should be in on this agreement as well.' But, as no decision has been made by the court whether they are valid native title holders in that area, it will take some time and a conjunctive agreement may have been reached between the mining company (that is, from go to whoa) and one of the 25 Aborigines.

At a later stage the other 24, through court action, may finally have it upheld that they are valid native title holders, but those 24 cannot go back to the mining company and say, 'We should be in on this agreement; we want our views heard as to the terms of that conjunctive agreement,' because the deal has already been struck. We believe that, in an area where there is a dispute as to who the native title claimants are, disjunctive agreements, which are binding and pass down generations of succeeding people, should not be struck until all who are legitimately and validly entitled to be parties to the agreement have been sorted out so that all views are taken into account in the agreement, not basically where one company might pay off a few favourites.

The last point in our major concerns relates to the obligations of parties to negotiate in good faith to arrive at an agreement. On the face of it, it sounds fair enough. It would seem only reasonable that both parties should enter into negotiations in good faith. As I understand the legal implications—there may be some dispute about it and we will know more during the Committee stage—to bargain in good faith means that both sides must be prepared to give ground or to move from their initial positions.

The Hon. S.J. Baker: Is this between Aboriginal groups or between miners and Aboriginal groups?

Mr CLARKE: Between miners and Aboriginal groups—the native title holders. The difficulty is that an Aboriginal group, for legitimate reasons, may say, 'This land is sacred to us. We don't care what you are prepared to offer us; we are saying "No".' At the end of the day, the mining company can go off to the court and get a determination on that matter one way or another in an arbitration, if that situation arises or at any stage when negotiations break down. But these Aboriginal groups quite legitimately do not want to be held to be at a disadvantage if they can be accused of not bargaining in good faith because they were not prepared to shift from their original position. If they sincerely hold to their original position, which is, 'No, we do not want you at any price', then at subsequent court hearings on this matter they should not be disadvantaged on the basis that they have not been bargaining in good faith because they have not been prepared to move beyond their original position, and that is a very important point.

The Opposition wants there to be as much certainty as there can be in any legislation that we pass in particular with respect to valid title. Aboriginal groups, and in fact the whole community, have a valid and active interest in ensuring that that occurs. We do not believe that the Government's legislation allows for that. We sincerely believe that, and we are putting these amendments to the Government in the hope that it will actively consider them. Aboriginal groups are not anti-mining. They are not anti-development. Indeed, they welcome in many respects mining development to allow them economic independence of Government handouts, to create dignity and self-worth among themselves, particularly their children. Let no-one in this House or in the outside community believe that those people are anti-development, because that is not the case. They have legitimate rights which must be respected by this society.

Whilst some may accuse the Government and the High Court, by its judgment in June 1992, in terms of throwing impediments in the way of Australia's development, the real answer to that, as I said earlier, is that it is not an impediment. The High Court's judgment and the subsequent national legislation that came down at the end of last year give us the opportunity in this country and in this State to do the right thing by our indigenous people who for over 200 years have suffered under our occupation of their land. We are not leaving: we are all here together, and we want to walk together.

We passed a unanimous resolution only a month or so ago when the Council for Aboriginal Reconciliation met in this State. We sat here and a number of us spoke on that occasion to pass that quite moving resolution in support of reconciliation between black and white Australians. It is a resolution being carried by every Parliament in Australia, unanimously, and in the national Parliament, and we have an opportunity through this legislation to assist enormously in that process and to carry on the bipartisan support that has existed in this Parliament concerning Aboriginal affairs for the past 20-odd years. I want to see that continue, and I am sure that the Government wants it to continue. I believe that we can work very constructively towards ensuring that that actually happens.

I am not belly-aching about this point to the Deputy Premier; I realise that he has his tasks with respect to scheduling Government business, but this enormously complex measure was tabled on 19 October. I am fully aware that similar legislation was tabled in the House back in May this year, that it was subject to a number of meetings and negotiations between the Attorney-General and the Government's subcommittee on this matter and various interest groups, and that it culminated in these Bills coming forward on 19 October. In that time, because the House has been sitting, the opportunities that I have had as the lead spokesperson for the Opposition in this matter have been somewhat limited in terms of my being able to talk as extensively as I would like to the Chamber of Mines and the Farmers Federation. In fact, I was able to speak to them by telephone only yesterday to give them a brief outline of our views on these matters. We have had an opportunity to discuss these issues at some length with the Aboriginal Legal Rights Movement.

I simply say that I hope that, in the process of the Committee stage of deliberation of these Bills, we will be able to achieve as much agreement as we can so that, by the time this legislation goes to another place for debate, any issues of contention between us have been narrowed. More importantly, whilst I appreciate the Government's desire to get the legislation through, neither the Government nor we in the Opposition are guaranteed of having our wishes adhered to in another place, where the numbers are somewhat different there. It would seem to me that we could use next week, when we are not sitting, and possibly beyond that, for major consultation between the major Parties to see if we can reach some agreement.

What would be very bad, both for our State economically and in particular for our indigenous people, is for legislation to be debated late at night, at 2 a.m. or 3 a.m., with amendments spinning around the place moved and seconded by people with two days to necessarily totally comprehend the implications of the legislation, by which at the end of the day, instead of creating certainty amongst our miners, pastoralists, Aboriginal groups, the Government and society generally, we will have created more uncertainty about its meaning, particularly *vis-a-vis* the Commonwealth legislation. So, I make that offer to the Government today on behalf of the Opposition, that we stand ready to negotiate with it. We appreciate that the wheels are turning in so far as consideration of this legislation in the House of Assembly is concerned, and we cannot do much about that; but, in terms of the passage of this legislation to the Legislative Council, we would be quite happy to sit down with the Government and try to thrash it out to everyone's satisfaction and to as near as possible satisfy everyone's legitimate concerns.

I will certainly be forwarding copies of the Opposition's speech with respect to these pieces of legislation, our amendments and explanatory notes, to the other interested parties in this matter, namely, the miners and pastoralists, through their representative organisations, so that they know what we are about, and I am happy to meet with them at any time prior to these matters being debated in another place, and even while they are in the process of being debated there, so that we can get the best possible outcome for South Australia.

Mr KERIN (Frome): In rising to support this package of Bills, I must admit to being somewhat sceptical as to whether the Federal Government's legislative response to the Mabo decision was a completely correct one. However, accepting that the High Court decision was made and also accepting much of the argument put forward in that decision, we currently need to work with the Federal legislation as it is. I recognise that this package of Bills is necessary. The package leads to a better handling of any claims made in South Australia and also hopefully will lead to negotiated settlements rather than costly Supreme Court actions.

Native title is a very important issue for all Australians. As mentioned by the member for Ross Smith, at times the debate has become alarmist and, if not handled properly, it has the potential to become a very divisive issue for Australians. These Bills will make a contribution to negotiated settlements and, hopefully, harmony and minimise the community division which could occur because of native title claims. Native title is not only feared by some in the community but it is also very little understood, and even some of our lawyer friends seem to have trouble with the concept.

The public misconception of native title is a one-way street. It does not take into account the findings of the High Court in the Mabo 2 decision. Hopefully the recognition of the Mabo 2 decision—that the grievances of the indigenous people need to be understood as well as the interests of others and the community interest as a whole—will help to allay many of the fears that are out there in the community. Having accepted the High Court's decision, it is vital that the interests of all Australians, whether indigenous or not, are taken into account. The package of Bills that is put forward will help to achieve that end in South Australia.

The Land Acquisition (Native Title) Amendment Bill provides for compensation to be payable for the acquisition of native title land on the same basis as it is arrived at for other land. This is an important protection for current land users who may be dispossessed as the ultimate end to a claim. Also this Act will reduce the legal costs of such claims by allowing the Land and Valuation Court to determine disputed claims for compensation which arise out of the legislation, with the next reference, if needed, to the Environmental and Resource Development Court. It would certainly be more economical this way than having matters decided before the Supreme Court. These are important measures, as one of the major fears with native title is the enormous legal cost which could be incurred. Native title recognises a valid concept. The amendments to the Land Acquisition Bill are both practical and deserving of our support.

The Mining (Native Title) Amendment Bill reflects an acceptance of the realities of the High Court decision. The proposed changes are needed to allow the Mining Act to remain workable and provide a proper framework for negotiation between miners and those who may be making native title claims. The practical result of the Bill provides for

the Environmental Resources and Development Court to determine the rights to prospect, explore or mine for minerals and assess compensation payable to native title claimants where negotiations on compensation break down.

The Environment, Resources and Development Court (Native Title) Amendment Bill proposes the necessary changes to allow this court to hear and determine native title claims, as directed under the State's Native Title Bill. The Bill also enables the more difficult cases to be referred to the Supreme Court for hearing. The fourth Bill under consideration is the Native Title (South Australia) Bill, which provides much of the framework for the way in which we handle native title claims in this State.

As I said before, the package of Bills is necessary. While supporting this necessity, I, amongst many others, still remain somewhat unconvinced that the Federal Government really has its act together on native title and still would urge it to review some aspects of the legislation. It is vital for the harmonious future of Australians that this does not become a divisive and damaging issue in the next few years. I support the Bills.

Ms STEVENS (Elizabeth): I rise to support the comments made previously by my colleague the member for Ross Smith. While I do not wish to go into the details that he went into, I want to make some general comments about the Bills before us and about the issue that they encompass. Last December, just before Christmas, the Australian Parliament passed the Native Title Act 1993. This happened 18 months after the High Court had upheld the claim of Eddie Mabo and the Murray Islander community to title over land that they had occupied for many generations.

The doctrine of *terra nullius* was overturned and land rights in the Act for indigenous people are now enshrined in common law. As my colleague mentioned, following the High Court decision in June 1992, there were many unresolved issues and a whole range of concerns were raised by large sections of our community. These sections included farmers, the mining industry, State Governments, as well as various parliamentarians, the Federal Government and also sections of the community. It was over that period between June 1992 and the putting together of the Federal Act that much discussion and consultation occurred to try to resolve some of these issues.

However, last December the Act was passed, and it was a highly significant Act for us as a country and us as a nation, for it recognised the basic inalienable rights of our indigenous people to land which we know is of great significance to them as people. I believe that that decision is a very important one for our nation. I believe that we are embarking upon an unprecedented area of change and development in Australia, and that by the end of this century we will have come of age in a number of ways. Economically we have done a lot over recent years to change our work practices, to make ourselves competitive, so that we can compete on the world stage and provide prosperity for our country.

In education we have seen better outcomes for most people in our community than ever before. We also acknowledge that for our Aboriginal people there is still a long way to go and much more that we need to do in this area. In employment we are making great changes in relation to jobs, the nature of work and linking jobs and training. The role of women has changed, and the importance of the role of women is recognised throughout society. This Bill, in relation to Aboriginal people, is an integral part of all of those changes. We realise that reconciliation with our indigenous people and their equal access to health, education, jobs and land is central to their self-determination, and indeed, our self-determination as a country. As my colleague said, we need to walk into the future together, and the Native Title Act 1993 is the first important step in doing just that.

I would like to pay a tribute to the role of the Prime Minister in relation to a lot of the work that was done in respect of the Act that was passed last year. He had the strength and courage to take the vision and stick with it and work through all the issues and to come out with something in the end. I also would like to pay tribute to the Aboriginal people who spent hours and hours of debating, of thinking through, of arguing, of putting their case. People watched throughout the country as the debate proceeded, the highs and the lows, the feeling that progress was being made and then perhaps that there was no progress being made and that it was all going to fall away. But it is a tribute to all of those people that they won through and came to a point where they could put something up that was passed in our national Parliament.

In response to the four Bills that are before us, it is quite true that we do need complementary legislation here in South Australia, but we need to make sure that we have consistency in our legislation with the Commonwealth law. If the amendments that the Opposition has foreshadowed are not accepted, it will mean that South Australia, through this legislation, is going out on its own. To achieve clarity and certainty for all stakeholders and everybody in our community we need legislation that is not less than that already put forward in the Commonwealth legislation. I support the comments of the member for Ross Smith, and I hope the Government will look carefully at the proposed amendments because we believe that they will make for a much better set of Bills and for a much better result.

The Hon. M.D. RANN (Leader of the Opposition): In following the member for Ross Smith and the member for Elizabeth, I point out that we are today considering historic legislation, which will give a legal underpinning in the law of this State to the High Court's historic decision in the Mabo case. Let us remember what the High Court decided: that Australian law should not be, in the words of Mr Justice Brennan, 'Frozen in an era of racial discrimination'. The High Court's decision in the Mabo case ended the pernicious legal lie of *terra nullius* for all of Australia and, indeed, for generations and centuries to come.

The court described the situation faced by Aboriginal people after European settlement as a conflagration of oppression and conflict, which was, over the following century, to spread across the continent to dispossess, degrade and devastate the Aboriginal people. The court went on to say that Aboriginal Australians faced deprivation of their religious, cultural and economic sustenance which the land provides, and were left as 'intruders in their own homes'. So, Mabo is not about guilt: Mabo is about justice.

I certainly agree with the Prime Minister who said, upon the introduction of the Commonwealth's Native Title Bill, that whilst some seem to see the High Court as having handed Australia a problem, 'The fact is that the High Court has handed this nation an opportunity.' I am sure all of us would agree with Paul Keating in this regard. During the past quarter of a century or so, this State has had a history of leading Australia in the recognition of Aboriginal land rights. In 1966 a young, progressive, Attorney-General of this State,

Don Dunstan, introduced Australia's first land rights legislation when he established the Aboriginal Lands Trust.

That trust, which exists today, was in many ways the turning point in recognising the special association that Aboriginal people have with their land. But we in this State did not rest on our laurels. In 1978, Don Dunstan introduced historic legislation designed to give inalienable land rights to the Pitjantjatjara people in the North West of our State. He did so not because the issue was trendy or even popular—it was not popular. Don Dunstan introduced that legislation because it was right and because it was just, and it is to the enduring credit of the then Liberal Premier, David Tonkin, that the process begun by Don Dunstan was continued with the passage of the Pitjantjatjara Land Rights Act during his administration.

Later, after Labor was returned to power, the Bannon Government introduced legislation to give inalienable land rights to the Maralinga people so aggrieved by nuclear testing on their lands in the 1950s and 1960s. Again, that legislation was achieved in a bipartisan way. Significantly, that bipartisanship has continued for a decade, with a parliamentary committee established to give oversight to the continued operations of the Pitjantjatjara and Maralinga land rights legislation and, following legislation that I introduced as Minister for Aboriginal Affairs, to have oversight of the Aboriginal Lands Trust.

That parliamentary committee (one of the best committees operating in this Parliament) regularly visits the Aboriginal lands and holds meetings with elders and community members to discuss issues of importance—education, health and business opportunities, as well as possible amendments to the Act and regulations therein. As a result of that committee's deliberations in a bipartisan way, we established—in statute—the Aboriginal Business Advisory Council to provide expert advice to Aboriginal communities in Lands Trust areas in their business and farming endeavours.

It was because of that bipartisan committee that special legislation was passed to give Lands Trust communities the right to ban alcohol on their lands, if that was deemed necessary and important by the communities themselves. It was because of this bipartisan committee that I introduced legislation to return more than 3 000 square kilometres of the sacred lands around Ooldea to the Maralinga people. Let us remember that legislation and what it was about, and why every Labor member of this Parliament, every Liberal member of this Parliament, every independent and every Democrat sought to support that legislation, and also the committee that had proposed it.

For many thousands of years Ooldea was a meeting place and ceremonial site for the people from the Great Victoria Desert and beyond. In fact, it was one of the most important trading areas for clan groups from the Kimberleys, in Western Australia, and from central Queensland, as well as for the Pitjantjatjara clan groups to the north. Ooldea is known by anthropologists as an Aboriginal metropolis. We saw that Aboriginal metropolis and the culture established there destroyed, first, by the railways, when the cultural and social fabric of the traditional nomadic peoples who identified with Ooldea was tragically destroyed by white settlement, particularly through the sinking of bores to assist the railway into the traditional soaks; and, secondly, by ill-health, alcohol, the christian missions that were established and then as a result of the nuclear testing.

So, because of that recognition by a bipartisan committee of the very special spiritual imperative for the Maralinga people to continue to have ownership of the Ooldea area, and to protect the ancient burial sites from intrusion and desecration, this Parliament sought to make up for the mistakes of the past and to help redress the injustices of history. That is what I hope we are doing today. That same bipartisanship was, of course, also applied to the legislation that handed over the Wanilla Forest to the Port Lincoln Aboriginal people through the Lands Trust—again, a unanimous decision of this Parliament.

My plea today is that that spirit of bipartisanship, unique to South Australia, applies to Mabo. Indeed, in mentioning that spirit of bipartisanship, all of those members of that parliamentary committee over the years deserve an enormous amount of credit because they are held up in national forums of Aboriginal Affairs Ministers as being the pre-eminent example in this country of how to deal with Aboriginal issues in a bipartisan way. We handle things differently here in this State. We do not and must not tolerate racism, and I am sure we will not allow Mabo to be used as a weapon to attack Aboriginal people in this State and in this Parliament.

If we can achieve that during this debate we will not only be able to lift our heads high in the face of history but it will also contrast most sharply with the approach of some of our parliamentary colleagues in other States. In Western Australia, we saw Premier Richard Court exploit racism, to lift his sagging approval ratings, by repeatedly putting on the public record that people's suburban backyards were under threat. Richard Court then moved on and suggested farmyards were under threat. It was a lie and a deliberate attempt by the Premier of Western Australia to stroke the racist nerve and to exploit prejudice, and that is why he deserves national contempt.

We then saw the Leader of the National Party in New South Wales rise up at a conference in Wagga to speak to assembled National Party members. He reassured them that their farms would not be under threat because the National Party would protect them. I hope we handle Mabo differently here. There is no doubt that the High Court's decision on Mabo does have the capacity to reshape relations between Aboriginal and non-Aboriginal Australians. Although the High Court's decision will have perhaps direct benefit to only a small number of Aboriginal people, parliamentarians at every level in Australia, in every State and in the national Parliament have a responsibility to ensure that Mabo is a springboard to better, long-term and durable relationships between Aboriginal and non-Aboriginal Australians over the issue of land and justice.

We must ensure that Mabo enables us to move forward with the process of reconciliation between indigenous and non-indigenous Australians, and to ensure that they are equals in that process. Today, in this Parliament, we must have two clear aims: to do justice to the Mabo decision in protecting native title, and to ensure workable, certain land management.

Above all, our task is to provide certainty—certainty for Aboriginal people; certainty for miners; certainty for pastoralists; and, where there is contention over different and competing claims, certainty at least in the process of settling differences and settling those claims. For a year before it introduced native title legislation, the Commonwealth held extensive talks with Aboriginal and Torres Strait Islander organisations, State and Territory Governments and the mining and pastoral industries. I am satisfied that the Commonwealth's negotiations and consultations were open,

honest and constructive. Talks continued on the basis of accepting the Mabo decision and wanting to make it work, despite the immense legal complexities and the false and emotive nature of much of the public debate.

Today we are not casting our votes for or against the High Court's decision; the High Court has made its determination. With State legislation we are simply providing complementary and supportive legislation to the Commonwealth Native Title Act. So, let us recall the central purpose of the Commonwealth legislation. It had four key aspects:

1. Ungrudging and unambiguous recognition and protection of native title.

2. Provision for clear and certain validation of past acts, including grants and laws, if they have been invalidated because of the existence of native title.

3. A just and practical regime governing future grants and acts affecting native title.

4. Rigorous, specialised and accessible tribunal and court processes for determining claims for native title and for negotiation and decisions on proposed grants over native title land.

The legislation complies with Australia's international obligations, in particular under the International Convention for the Elimination of All Forms of Racial Discrimination. Certainly, if you look at the preamble to the Commonwealth legislation, the Federal Native Title Act constitutes a special measure under the Racial Discrimination Act for the benefit of Aboriginal and Torres Strait Islander people, providing as it does significant benefits, such as special processes for determining native title, protection of native title rights, just terms compensation for any extinguishment of native title, a special right of negotiation on grants affecting native title land, designation of Aboriginal and Torres Strait Islander organisations to assist claimants, and the establishment of a national land fund.

The Commonwealth legislation recognises that the bulk of dealings in land are done by the States and Territories, and certainly we again can hold up our head with pride in terms of the fact that more than 20 per cent of the land area of this State is already under Aboriginal ownership. The Commonwealth Native Title Act does not seek to change this situation and, indeed, is sensitive to the prerogatives of the States. What the Commonwealth has done is set national standards and establish a national framework for dealing with native title. Commonwealth legislation enables State and Territory Governments to validate their past grants with certainty, provided that they adhere to standards set out in the Commonwealth Native Title Act. Indeed, the Act specifically provides for States and Territories to provide their own tribunals and arrangements for, first, determining native title claims and, secondly, deciding whether proposed grants affecting native title may be made. The Commonwealth Act has provision for recognising State arrangements on the criteria for this recognition, as set out quite clearly in the Native Title Act at the Federal level. That is why the determination of native title claims can be made by the Federal Court or by a recognised State or Territory body.

So, the Commonwealth has quite rightly determined that, in regard to decisions on land use, where the Commonwealth has recognised State and Territory processes, the Commonwealth will step back. State bodies, not the Commonwealth tribunal, will decide whether grants should proceed. Recognised States and Territories will also be able to override tribunal decisions in the State's or Territory's interests. That is why we must ensure that our legislation dovetails with that of the Commonwealth. The agricultural and mining community needs that certainty and so do the Aboriginal communities. We must just not adopt the crude, populist approach of the Western Australian legislation, which sought the compulsory, wholesale extinguishment of native title—a title embodied in the common law, and the inherent right of Aboriginal and Torres Strait Islanders who meet the criteria.

The Western Australian legislation, in contrast to ours, also seeks to establish a land management regime which provides only the barest protections for the Aboriginal people—protections far less than other non-Aboriginal land holders enjoy. The Western Australian Liberal Government did not attempt to hide the racism which underpinned its legislative approach. It sought the mandatory replacement of common law rights to native title by a statutory title—a title which is conferred only at the pleasure of Government and which can be extinguished, in particular cases, at a Minister's whim. That is why I am calling for bipartisanship, rather than pretend to groups that State legislation can override the High Court's constitutional decision. Let us not pretend that what we do today can give some special powers to some of our mates around the State and that that somehow overrides the High Court's decision, because that is simply untrue. What we must do is work in a bipartisan way to make our native title legislation a law that we can all be proud of, not just for now but for posterity.

South Australia's complementary legislation has the chance to be ground breaking in its own way, but only if it recognises with no if's and no but's—no soft options—the full intent of the High Court's decision and the Commonwealth Government's own legislation. I accept that this legislation has the potential to be a lawyer's nightmare, and no-one wants to give more money to the lawyers. We must work through it carefully, clause by clause, and in a bipartisan way to pass legislation which is fair and workable—fair and workable for Aboriginal people, fair and workable for miners, and fair and workable for pastoralists. We must work through it carefully, clause by clause, because too often legislation is passed in Parliaments which turn out to be what could be described as a 'dog's breakfast' if it is hurriedly entered into. It is seen as scratching at perhaps a particular populist concern in the community.

I believe that, if the legislation is passed in its current form, it will not be fair: it will not meet the legitimate needs of our indigenous people; it will not satisfy the pastoralists and miners; it will not satisfy the Commonwealth legislation; and it will not be consistent with the High Court decision. The Deputy Leader has spelt out the concerns of the Opposition in relation to this Bill. They are minor, but they are important; they cannot be ignored. I believe that it may not be possible to correct all the difficulties tonight and tomorrow and that it may need some close and bipartisan consultation with the Government to achieve what is intended as the Bill moves into the Upper House for consideration. So, I believe that bipartisanship is vitally important to protect the interests of Aboriginal people, to protect the interests of pastoralists, and to protect the interests of miners.

The Opposition has consulted widely on this legislation. However, consultation is still continuing even as we speak. There will need to be further fine-tuning over the coming days and weeks before we get the legislation that all of the people of this State deserve. The issues of who represents the Aboriginal voice, the definition of native title, the right to negotiate procedure under the mining Bill, the complex question of junctive versus disjunctive agreements, and how

we define the question of negotiation in good faith are all concerns which can be resolved sensibly and in a bipartisan way—in that South Australian way of dealing with issues of importance to the Aboriginal people.

Many of the difficulties that the legislation throws up relate to perception and whether the legislation really means what the Government in good faith believes it means. Legislation such as this cannot be rushed. We have the time—and certainly the Opposition at least has the patience to ensure that we do not end up with the 'dog's breakfast' to which I referred before: rather, we can leave the end of this session with carefully considered legislation about which the whole of this Parliament and all members, regardless of Party background, can be proud.

Mrs ROSENBERG (Kaurna): The need for this legislation arises from the Federal Government's Native Title Act 1993 and in a response to the Mabo decision. The Commonwealth legislation commenced on 1 January 1994. The package of Bills being considered here today comprises the Native Title (South Australia) Bill, the Mining (Native Title) Amendment Bill, the Environment, Resources and Development Court (Native Title) Amendment Bill and the Land Acquisition (Native Title) Amendment Bill and is a response to the Commonwealth legislation in an attempt to put the decisions about Mabo into some form of workable process. The State is obliged to introduce and enact this parcel of Bills to take into account the Commonwealth Act. The legislation process and package needs to be compatible with the Commonwealth Racial Discrimination Act.

Accepting this as a necessity does not mean an acceptance that this is necessarily right or just. Quite the contrary. The process of the compulsion on States to legislate similar legislation to follow a Federal Government requirement or phenomenon is something I oppose for many reasons. For the purpose of this debate, I make clear that I am not opposed to the introduction of native title legislation: I am opposed to the fact that the States are obliged to bring in legislation that complements Federal legislation which quite often is made by Executive Council and which is made through external treaties via the United Nations. I question whether that is the most acceptable form by which the Australian community is provided with legislation. Therefore, there is a real need for a standard approach across all the Bills and importantly an understanding of where everyone stands so that we can have a return of certainty to the process, particularly for the mining and pastoral industries, not to mention the Aboriginal people themselves.

The importance of discussion with South Australia's communities is not challenged but, as I stated in my maiden speech, we are and should be one Australia with everyone treated equally before the law for the protection of all Australians. We cannot be seen to be trying to make amends for the grave injustices that occurred in the past by our forbears by penalising today's community. The community accepts and is disgusted with the injustices that occurred in the past, but no less were the injustices perpetrated against our European forebears who were dragged across the sea in appalling conditions to a foreign land for the crime of being poor and treated with total disdain in this country. No-one is heard to suggest that today's community should bear the guilt and responsibility for those past acts.

I believe that this is as valid for the Aboriginal people as it is for our European forebears. Having said that, it is important to point out that the Native Title Act does not address or attempt to address those issues but deals with the Aboriginal Australians who have a continued association with the traditional land, their just right. One could argue that the issues of health and education are more important in some communities than are land rights. Some might argue the opposite. At least this debate can put on record the commitment of members in this place to all aspects of life for all Australians—Aboriginal and non-Aboriginal.

I point out that 20 per cent of South Australia is currently Aboriginal land, 23 per cent has national parks and reserves status, 7 per cent is Crown land, 40 per cent is under pastoral lease and the remaining 10 per cent is freehold. All Australians need to have the uncertainty of development and conservation removed for the benefit of all groups. Commonwealth and State legislation agrees that pastoral leases in place prior to the Racial Discrimination Act 1975 extinguish native title, which cannot be revived after it has been extinguished. The Native Title Act sets in place the National Native Title Tribunal (NNTT) as an arbitrator as well as a Federal court or State body. I am disappointed that the process to be followed to gain jurisdiction is long and will result in two separate places for native title claims to be heard. Delays can have a drastic effect on people's emotions, on the economy and on the income of the State. I support strongly the rights of the States to determine claims under the State's own legislation via the ERD Court. Native title can be transferred to the Supreme Court if that is necessary.

Although the ERD Court is supported in the Native Title Act and is assured of adequate resources, consistency with the NNTT provides for the requirement of a register and notification of claims and decisions. The ERD Court has the added advantage of including commissioners with expertise in Aboriginal law, traditions and customs. Importantly also, it prevents the need for duplication of resources. The Bill allows for other courts to be referred to the ERD Court as a principal trial court for native title. Naturally, the Supreme Court is always there as the superior court.

The Native Title (South Australia) Bill requires a register to notify potential native title claims and a registration of interest in land and mining tenements. It would have been an important step to require all traditional and ceremonial sites and so on to be on this register so that a true picture of future claims could be seen. This would have been to the benefit of both white Australians as much as to Aboriginal Australians. It offers a way of recognising any future claims and respecting the need for them. Therefore, I believe the register should go further. Importantly, it makes available a method for anyone to seek a declaration of whether native title does or does not exist. This is an extremely important process. I reject that the States should be held financially responsible for compensation payable as a direct result of the Commonwealth's legislation.

It is important to describe what native title means and, having listened to the debate for the past 20 minutes or so, I note that many members have described it. It needs to be put on record for members of the community who have become over emotional about what these Bills will mean for them. They will be able to read what we are talking about. Native title protects people who are recognised in common law as holding native title. Common law recognises the existence of native title. The traditional entitlement and the Native Title (South Australia) Act will validate pre-1994 common law and grants. It establishes the rules to deal with future common law and grants and provides a method to pursue claims—simply that. The native title question is not about land ownership in

all cases. There is no prospect for cities, suburbs, closely settled viticultural and agricultural areas to be under threat, and I support the previous comments made by the Leader of the Opposition.

It simply puts into words the protection of those Aboriginal people who have a long-term connection with the land and indicates that that connection has not been lost. The areas in question require a continuation of contact with the land. I do not want to make further contributions but I do commend this package of Bills to the House and wish to have recorded the concerns I have raised.

Ms HURLEY (Napier): The passing of the Native Title Bill in the Federal Parliament was greeted with applause from both sides. That passage has been described as a defining moment in Australia's history. Therefore, I am a little disappointed about the almost grudging way in which Government members are proceeding with this legislation. What has been done by that legislation is just and right, and everyone recognises that. As the Prime Minister said, we should all greet this as an opportunity rather than as a problem and be proud that we are part of a State that is putting through native title legislation. Discussions on guilt relating to past transgressions or on States' rights are extremely misleading in this debate.

What we are talking about is a right which until now Governments in this country have refused to recognise. But at last we have before us legislation which seeks to conform with the Federal legislation giving native title a legal definition in our legislation. I have worked extensively with the mining industry and I understand its need for a stable environment in which to invest, because some of its investments are very substantial. I have also worked over long periods in outback areas and have some feeling for the way the pastoralists and people who live in the outback also have a deep feeling for the country in which they have lived for a long time. I am very pleased that the provisions of this legislation are sensitive to those people as well as to the Aboriginal communities.

As a member of the Aboriginal lands committee to which the Leader of the Opposition referred previously, I am very privileged to have had the chance to talk with some of the Aboriginal groups and see at first hand the reasonable and efficient way they conduct their business and their willingness to explain and discuss with white people what they are planning to do and how they are planning to proceed. I believe that, with the amendments that have been outlined, this legislation will enable South Australia to continue its proud tradition of working well with its Aboriginal people, and as a member of that Aboriginal lands committee I hope to be a part of that process for a long time.

Mr MEIER (Goyder): Members would be well aware of the High Court's Mabo decision and the ramifications that have flowed from that decision. It has been within the Federal Government's sphere to bring in the initial legislation, concerning which there has been a lot of debate and comment out in the general arena for many months now; in fact, I guess you could say it has been going on for many years, even prior to that court decision. I have my own thoughts on aspects of the Mabo legislation and its relevance to the mainland of Australia, but I do not think this is the time and place to bring those points before the Parliament. In simple terms this legislation is complementary to the current Federal legislation.

As was pointed out by the lead Opposition speaker, whether we like it or not, if the States' legislation does not meet with Commonwealth approval the Commonwealth can override it. I for one certainly do not like that, but it goes back to our Federation in 1901 and there is nothing we can do about it. Members may refer back to the speech I made a week or two ago on the whole concept of looking at Federation and strengthening and re-examining the rights of the States; this is one area that could be looked at as well.

I believe that this Government has sought to do that which is appropriate and right under the circumstances, and I just hope that the whole flow-on from the Mabo legislation will be such that we will not create two classes of land management in this country, because that matter disturbs me greatly and if that were to be the result it would disturb me even more. I believe that all people are created equal and I therefore believe that their rights should also be equal. If we start to pass too much legislation that discriminates one way or the other we will find that one or several groups must be advantaged to the detriment of other groups, and that is a great worry. I know that there is also an argument among many Aboriginal people as to whether their land rights are really what many of them want, but I will not seek to go into details on that argument now.

I am sure all members would have been approached by Aboriginals who have a view different from that which has been expressed through the Mabo legislation and which has often been expressed through the media. I simply point out to the House that we must not forget to keep that view in mind, in other words, the view that the European occupation of this country has brought many benefits to all people, and hopefully all people can benefit from the advantages resulting from European occupation. There is no doubt that there were wrongs in the past, but then again I guess just about every person in society can look back through their history and identify wrongs that have occurred. Do we therefore seek to punish the people who are living today for the wrongs that were inflicted on our grandparents, great-grandparents or some ancestor down the track? That is the case in some countries; it has not been the case in Australia, and I would not want it to apply here. Certainly, I support the legislation.

Mr BRINDAL (Unley): In addressing some brief remarks to this debate I particularly thank the member for Goyder for his eloquent little interposition, which was so very well done. I am very proud to be a fifth generation South Australian. I and four generations of my family before me have grown up between Port Germein and the Adelaide Plain. I have listened with interest and with some concern to various aspects of this debate. I concur in what many of the speakers have said. Few students of history can doubt that in the past many errors of omission and commission were made by early settlers, and that was not to the pride of the development or history of this country. Much which was done was wrong and if, knowing what we know now, we could go back, hopefully as a society we would redress those wrongs and act much more justly.

I think history also records that some of what was done was malicious but that much more was done out of ignorance. Daisy Bates is recorded in history as a great person who went to the Aboriginal people and tried her best, but it is also well recorded that Daisy Bates believed that what she was witnessing was the genocide of a race and that she went out to, in her own words, 'smooth the pillow of a dying race' and to minister to a race that she saw disappearing from the face of this continent. While what she did was in many ways

laudable, one wonders whether the sentiments that motivated it and the belief that what she was doing was ministering to a genocide are in themselves laudable.

When members opposite speak about what was done by the Christian churches, I have heard them deplore some of the missionary mentality that has occurred in this State. In my time in Cook, the churches gave up much of the government of some of the territories with mission stations on them. I must say that in my time out in the bush and subsequently I have seen a new sort of patriarchal (and I use the word in its proper sense) hierarchy come in, in the form of do-gooders from the Government who lack the Christian ethic that sent the missionaries out there. At least they had a moral ethic for doing so, but some sort of socialistic ethos enabled Government workers to go out there and behave excessively, very much as they had accused the missionaries of behaving.

I say that because this debate should not be clouded by the efforts of the past. As I said earlier, I am a fifth generation South Australian. I do not know how long we have to live here—I know that the family of the member for Custance has farmed for five generations in the Mid North—before we, too, are part of the dreaming of this continent. What is essential to this debate—a matter touched on by the member for Goyder—is that we are a multicultural society. This continent, from the Pacific Ocean to the Indian Ocean, from the south to the north, is one continent and we are one people and we share that continent. The indigenous people have certain rights, which they had by right of being here when the first Europeans settled, and those rights cannot be ignored.

This problem is not one of historic perspective; it is a problem for contemporary Australia. It is a problem that is shared by each and every one of us who are Australian citizens of four or five generations, such as the member for Custance, or one generation of Vietnamese people who arrived last week. We are all Australians sharing one continent. The biggest factor in any country has always been the land and ownership of it. I note that very successful economic empire, modern Japan: if one goes there as a foreigner and tries to buy one inch of Japanese soil, one will quickly be rebuked. They see, as do many nations, the ownership of the land as something akin to the national identity.

In this debate, and because of the Mabo decision, we seek to redress what were in many ways past wrongs. What frightens me about the Mabo legislation is the number of instant experts who sprang up all over Canberra. I do not pretend to be a lawyer, but the High Court appeared to me to render a decision, and, almost using the decision as a reason, the armies of bureaucrats in Canberra, from the Prime Minister down, jumped to their feet and said, 'This is what we need, that is what we need, something else is what we need,' and then sprang into a legislative frenzy and gave us a plethora of legislative measure, and they now ask this Parliament to follow suit.

Because I am not the Attorney-General and I am not advised by a battery of lawyers, I am not in a position to say that this is the best legislation or even whether it is good or bad legislation; but I am in a position to say that I have been assured by the Attorney-General and responsible Government officers, who should know, that this Parliament should pass this legislation. It is a matter in which I for one, and I suspect some of my colleagues, must have a degree of trust. Therefore, I shall be supporting the Government in this legislative measure. I am supporting it because tells me to do so and because I am having some trust in—

Mr Clarke interjecting:

Mr BRINDAL: The member for Ross Smith asks whether I would jump off a cliff if it told me to do so. I point out that I am not a member of the Labor Party. My caucus does not compel me to jump off the cliff when 50 per cent of my Party tells me to do so. If I saw the precipice and thought it was big enough, I hope that I would be rallying the crowds on the edge to cheer those with the courage to jump. I do not think that I would necessarily do so myself.

The point, which has been made by others including the member for Goyder, is that whatever the result of this legislation I would hope that every member in this Chamber, both Labor and Liberal, and every member of our Federal Parliament, would seek to have legislation which is fair to all people. The member for Goyder expressed some concern, which is my concern: that we do not want two classes of citizens in this country. I have heard Opposition members address issues of social justice, and such issues are important. We want an egalitarian country where all people have equality of opportunity and nobody is deprived of the necessities of life. We want this country to be as equal as possible.

In that general vision which we all share as egalitarian Australians, I suggest that we do not want a system where, as the member for Goyder said, there is any danger of there being classes and types of land ownership where some people, for whatever reason, are given a privilege that is not available to others and, indeed, where some people are deprived of a privilege that is available to other people.

There is one thing that amuses me somewhat. A Pitjantjatjara elder, who raised this matter with me, said, 'You can go anywhere in Adelaide, buy yourself a block of land, hold that land under the Torrens title and buy, sell and exchange it in your own name.' Let us be quite clear. My understanding of Aboriginal custom and law is that, generally speaking, a person or family can have custodial rights over a particular site. The member for Ross Smith may have as his dreaming a great big rock which resembles a bald head, and he may have custody of that mile or so of territory as his dreaming, and the member for Custance may have charge of another area which is his dreaming. When we as a Parliament grant to those people the rights of traditional ownership, we do not say to the member for Ross Smith, 'Well, this is your dreaming; describe it in Torrens title terms,' and then say, 'Here is the title for your dreaming'; and we do not say to the member for Custance, 'Here is the title for your dreaming. You hold that as a freehold title.' But we say to the Aboriginal Lands Trust, not even to the tribe in question, 'Here is this big area which we give to you in trust for this tribe.' We do not even give it to the totality of the tribal grouping which owns it.

I think that is a form of paternalism, and not even a commendable form of paternalism. If I can own land in freehold and if the member for Mitcham can hold land in freehold, why should Aborigines not be granted the land which they can claim to be their dreaming and that of their family in perpetual succession and in freehold title? Why must we go through the Aboriginal Lands Trust and set up these paternalistic organisations, the purpose of which is to protect them and to stop the land from being bought and sold by third parties? It is done really only to escape the pitfalls of experience in Alaska where people were given freehold title and those people then bought, sold and exchanged the land, sometimes involving scurrilous people and ridiculous prices. In the end, the indigenous people had very little and

some people profited greatly from it. I do not want to see that scheme here, but I do not want to hear people say that we are not being paternalistic, very egalitarian, and all that claptrap. This is an important issue, and the only way that it will be treated importantly is if we get away from a lot of the cant that surrounds the debate. One has to be very careful and politically correct and say just the right things in this place. If the member for Ross Smith says something wrong about the Aborigines, he is frightened to death that the member for Unley will tell all the Aborigines that he is a racist, and *vice versa*. In many ways, we cannot even be honest with one another, because everybody is watching us and giving us marks for political correctness. The best example is our colleague who got up and expressed an opinion, because the next thing we knew was that the politically correct people around Australia were demanding his resignation from Parliament.

Mr Clarke: Do you agree with him?

Mr BRINDAL: The member for Ross Smith asks whether I agree with him. Sir, as a scholar, you will know that it was De Carte who said, 'I do not agree with a word he says, but I will defend to the death his right to say it.' Whether or not I agree with him is irrelevant. Whether as an elected member of this Parliament he had the right to say it is what is important. I am saying that what frightens me about this debate is that many of us feel constrained because of the political correctness that seems to be prevalent in our society and with which the media commentators tend to try to saddle us and judge us, and often judge us unfairly. I would prefer to see an honest debate come up with a good solution for this country, even if it has to be a racist debate, rather than see a politically correct debate which results from a Parliament too frightened to make decent decisions.

I will support the legislation, but it worries me greatly that we are too busy in 1994 being politically correct to do justice to either the Aboriginal peoples of this nation or the other peoples of this nation. It worries me that in 15 years I will live to regret the passage of this legislation because I might not sit down and think, 'I did the best I could by the indigenous people and I also did the best I could by the other people of this country.' It is a burden I am prepared to wear but one that I am not prepared to wear lightly and one that I will not wear without at least putting down those statements in this House.

Mr VENNING (Custance): I rise briefly to support the Bill, although it is a pity that we need a Bill like this at all. It is a very reasonable attempt to solve a very difficult situation, a situation brought on by a Federal problem. Certainly it is much better than the Federal Government's Native Title Bill. In fact, it grossly discriminates against our State as it does Western Australia, Northern Territory and, to a lesser extent, Queensland. It is all very well for the gurus in Canberra to foist on us a Bill like this that affects these States while it does not affect New South Wales, Victoria, Tasmania and, least of all, Canberra. The problems caused in this State have been tremendous, both personal and physical. It is also against our land-holders, particularly in our pastoral areas. We all know the problems and anxieties it causes there.

Our mining industry has been brought to its knees over this legislation. For anybody coming to our State today and taking up the offer made by this Government, the offer of looking over all the surveys we are doing, the magnatomic and magnetic surveys that are provided, and considering spending millions of dollars on their own research in setting up a mining industry, the Federal legislation hangs over their head like a noose because they cannot be guaranteed tenure. If we cannot guarantee that, they may not be able to finish any project they commence. As we have seen before, a project could be started and all of a sudden a native title claim is placed over it. Is it any wonder that mining in our State is in a very tenuous position? It is coming back, and that is gratifying to see. No Government can guarantee title to anybody wishing to take up a mineral claim. Nobody can refute that. What company will outlay millions of dollars to start up a mining venture with this hanging over its head? It is certainly very difficult.

The Federal Government's Act has opened a Pandora's box in relation to native title. I am not a racist. In fact, I get on very well with all Australians, of all colours and nationalities. It is funny where these claims seem to be popping up. They seem to be popping up in the most important areas, such as mining sites, tourist resorts—and I will name Uluru or Ayers Rock—and in recent days we have seen it on the Murray River. What about the water in the Murray? Apparently that is subject to native title as well. To say that it is opening up a Pandora's box is an understatement when we consider these sorts of issues.

I firmly believe that the original Mabo legislation pertained exclusively and particularly to the Torres Strait Islands. Today it seems to know no bounds. It is a legal nightmare and a lawyer's dream. Even so, many of our Aboriginal friends look on in disbelief at some of the outrageous claims we are now seeing. As the member for Unley just said, how long do I have to live in one spot? I live in a house that was built by my great great grandfather. He built it in 1840 when the land was taken up. He was one of the first white persons in the area. How long does that give me before I have the right to claim native title? I have my dreamtime there. This place can be very stressful. The best therapy I can have is to return to the farm, get on a motorcycle or, better still, go for a walk on the property or along the river, which I know was frequented by Aborigines before we came on the scene in the 1840s. I have my dreamtime there, and very seriously I wonder when I or my family will be entitled to make a claim in respect of that property, if ever. I do not think I have any right at all. I know this argument is not relevant, but I wonder about the relevance of the whole native title legislation.

This is just another example of legislation being made in Canberra—that loftiest place of lofties (and I almost went there!)—by people who do not have much commonsense or people who do not have their feet on the ground. It is legislation for the sake of legislation. I support this legislation and in turn support South Australia's pastoralists, landowners, mining industry, Murray River irrigators and, most importantly, our Aboriginal community. I firmly believe that many of them are quite aghast at what we are doing. The Federal legislation is discriminatory. The Bill before us is fair and reasonable and I support it, but I wish we did not have to have a Bill like this at all.

The Hon. S.J. BAKER (Deputy Premier): I thank all members for their contributions and recognise that this is a very complex area. I must say that I do not pretend to understand it fully, nor do I think it will be understood fully until matters are fully tested through a range of propositions. So, from that point of view the Deputy Leader of the Opposition made a very strong point, and I will argue why we have to have the Bill. It was rather gratuitous of the Leader

of the Opposition in the way that he kept emphasising 'bipartisan support'. He must have used the term five, six or seven times. I must refer back to the *Hansard* brief.

I would remind the Leader of the Opposition—and it certainly was not the nature of the contribution given by the Deputy Leader, whose contribution certainly was very considered—that it does not assist the debate to suggest that the issues that we are debating here are not being handled in a bipartisan fashion. When it gets down to what we believe will be the best result in both legal and human terms and we have a different result to the Opposition, he can then suggest that it is not bipartisan. However, he can hardly claim that we are not approaching this whole proposition in a bipartisan fashion.

I inform the Leader of the Opposition that I found some of his remarks quite offensive. He should contribute to the debate in the same way as all other members, and in that regard I pay credit to the Deputy Leader for his contribution, plus every other member of this Parliament. Other members who have spoken in the debate said, 'We recognise that the Government is taking the initiative. We recognise that that is the Government's wish, even though we may not share the desire for this initiative'. However, nobody suggested that this matter would not receive bipartisan support. We may have differences in respect of the outcome, but I did not hear any other member express reservations about the issue of native title. So, perhaps the Leader of the Opposition should mend his ways and treat the debate on its merits.

The issue for us is to what extent we can clarify the Federal native title legislation to make it workable. As the Deputy Leader would understand, it is not workable at the moment: it has not gone through its paces and it has not been tested. It leaves huge gulfs in understanding and, therefore, what we are trying to do through this legislation is say, 'We believe we are interpreting the spirit of not only the Mabo decision but also the Federal native title legislation.' If you believe in the issue of native title, as indicated by the Mabo decision and as pursued in the native title legislation in the Federal arena, the only constituencies that can issue title happen to be State constituencies except, of course, in relation to the Territories.

So, we are in a situation where State rights do have a very important role to play. It is a matter which seems to have been overlooked by the Commonwealth. We have a Torrens title system here in South Australia. We have a process of issuing leases. They are systems that have been set in train virtually since the first settlers arrived in 1836, and certainly with the assistance of Colonel William Light. So, we have set up a procedure in law to recognise title and how we exchange title. That has also been recognised in our relationship with the Commonwealth Government at the point of Federation. Therefore, if we should have determination on title it must remain within the States' sphere. To do otherwise would lead us to the enormous conflicts between our own laws, for which we are responsible, and, indeed, someone sitting over in Canberra making decisions which would not necessarily be compatible with what exists in this State.

The point has been made. The Attorney-General has raised questions, and he did so for very good reasons. If title is to be imparted, let us ensure that we impart title consistently and within the jurisdictions that exist today. If we should exceed our authority, or if the Commonwealth is unhappy about the way we do that, the Commonwealth in the past has not been reticent or reluctant to use its external powers and other powers at its disposal to enforce its will on the States. So, if we are not living within the spirit of what we believe the determination and legislation is trying to achieve, we can guarantee that the Commonwealth will sort it out for us. We cannot live with a situation where, in principle, we walk away, vacate the field and leave the anomalies between the two jurisdictions. We believe that we have to have clarity; we believe that we have to have certainty; and everybody in this Parliament would agree with that. If we are left with a situation where all the issues are still being debated in two years, we will have lost an opportunity and created aggravation because we have unsettled matters, we have disputes and, therefore, we will have done nothing for our citizens, whatever their colour and whatever their background. So, it is beholden on us to sort out those questions.

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

The Hon. S.J. BAKER: Before the adjournment, I was discussing the importance of South Australia's achieving clarity: to do otherwise will mean that we are left to the vagaries of what will happen in Canberra, and that is not something about which either miners or Aborigines will feel comfortable. It is important that decisions be made that can be contested; that can be done either by case study or by amendments to the Federal legislation so that we all know what we are working with. The real problem at the moment is that we do not know what we are working with. We understand the fundamentals; we understand the intent; we agree with the intent; however, when it gets down to how it actually works, there are some great imponderables, as everybody will understand and admit. The Attorney has reflected on those on a number of occasions.

Somebody said it was grudging legislation. That is not true. We are trying to save South Australia. We led the band. We recognised the Pitjantjatjara; we recognised Maralinga and, I believe, we were the trail blazers. We intend to be the trail blazers again. That is not to say that anything we do in South Australia will not be subject to challenge and, if it is subject to challenge, the matter will be clarified, but to leave the question unanswered will leave us in a void and a vacuum that most people would say must be satisfied.

As was pointed out at the time, we had an interest in the Western Australia challenge only to the extent of impingement on States' rights, and I have explained the relevance of States' rights and the imparting of title. That was the only matter that we wanted to canvass in the context of this legislation. The Deputy Leader raised a number of questions about the legislation consistent with possible amendments that may be forthcoming.

I would like to take up each of the issues but, first, I recognise that the Opposition emphasised that Aborigines are not anti-development, and I would agree entirely. We do not have a difficulty with that at all. In fact, some of the relationships between mining companies and Aboriginal representatives have been very constructive. I know that Robert Champion de Crespigny made statements about the need for everyone to work cooperatively. He said that we can take two paths: we can bulldoze through, or we can cement good, strong relationships where there is an element of trust, and we agree with him entirely on that proposition. We are saying, 'These are the rules. Let us set them down; let us work by them. If there is a contest and there is a lack of determination, let us determine. Let us not live with a situation that begs the question.'

Five matters were raised by the Deputy Leader, the first revolving around recognition for the Aboriginal Legal Rights Movement. I say quite clearly to this House that the Government is absolutely intent on finding a workable solution, and any organisation that has strong representation and strong affiliation within the Aboriginal communities is obviously an organisation we will recognise simply because there will be areas that will be difficult to negotiate. We have no difficulty with the concept that we need a body, such as the ALRM, which can be used to facilitate discussions and agreement on some particularly hard issues.

It is quite clear to me—and I do not have a great deal of knowledge in this area—that the issue of who has an historical association with the land is not a simple matter. I know that, in one mining context, it is an issue that has been raised with us as a Government. And whoever is dealing with it, whether it is Government that wants to purchase land—and that will not be the case in 99 per cent of situations—someone who wishes to operate on the land, someone who wants to mine the land or someone who wants to produce on the land, it is important that those people know with whom they are dealing. So the issue of native title and who has an interest in the land is absolutely vital.

We cannot have a situation where people are trying to deal with a number of claims, some of which are valid and some which are less valid. The Deputy Leader has been involved in the union movement and he knows that it is vital to negotiate with one party that can impart power and resolution: to do otherwise means that you continue to negotiate but you get nowhere. The intent of my comment is that ALRM does have standing; and, provided ALRM is able to be part of the solution, it can impart power and influence, bringing together parties so that those matters can be resolved. It will aid the process, and it would be irresponsible of us to deny such an important force. The recognition of ALRM is not a particular issue for this Government.

The second issue relates to clause 4(5) and the definition of 'native title'. There seems to be some reluctance to accept that we have provided clarity in the Bill. The clarity may not be supported by all and sundry. Taking 1975 as the definition point beyond which all decisions have to be made, people could say, 'We want to go back further than that.' We are saying quite clearly—and I hope that the honourable member understands—that we have to put down a point, and that point is, of course, the anti-discrimination legislation.

It is my reading of the decision, and it is the Government's understanding of the decision, that Governments, both State and Commonwealth, were capable of imparting title. They were capable of granting land. The Mabo decision determined that Eddie Mabo, his family and his tribe owned the land because that ownership had never been voided or excluded by the granting of a lease or a freehold title. So the decision was taken that Governments had the right to impart title. As soon as there was recognition that there was native title, the point is then anti-discrimination: the owner of the land could not discriminate against an Aboriginal, European, or whatever, on the basis that the Act precluded such discrimination. They were to be treated as equals. So, that is the context of the date of 1975, and it is generally accepted although it does not play an eminent role in the Federal legislation.

We have included in this legislation a point of determination and, if the Commonwealth is unhappy with it or a particular group wants to contest it, so be it. Unless we include a point to which people can refer and which people can challenge, we are going back to the same old argument that has prevailed since the Mabo decision was laid down. So, the inclusion of the 1975 date is deliberate, because it was the common conception at the time of the Mabo decision and on subsequent analysis of that decision that, whilst title might have existed, Commonwealth and State Governments had the right to impart or to take away but, as soon as they recognised the anti-discrimination aspects, they could not take away title, if that were presumed to exist, without some level of compensation. I think that the honourable member understands the argument. That is why the date of 1975 has been included, and it is important to understand that.

It has been ruled that, if native title exists (which has been agreed), that title has recognition under common law. Prior to that, the Commonwealth and the State had a right to take away title; they had a right to impart rights to use of land, but they also had to impart some level of compensation to those from whom it was taken. The anti-discrimination legislation made it inappropriate, impossible or under contest to take away ownership without some level of compensation based on race. It is a moot point and I know that the matter will be debated for many years, but it is a matter that should be contested sooner rather than later so that we know the boundaries of the decision and how we can work within them.

In terms of the irregularity between the State and the Commonwealth on the timing of the mining tenement, we would suggest that the Commonwealth Native Title Act allows for negotiation before tenement is granted. The Deputy Leader suggested that, under the Native Title Act, miners must negotiate before the tenement is granted. That is incorrect; the Native Title Act requires the State to give notice and to negotiate. That does not determine the finality of where the imparting of a right to mine shall be given; the Act does not say that all those agreements have to be completed or to be made before any mining can occur.

We are saying that the State approach actually works. Because of the possibility of considerable contest as to who has historical allegiance with that land, the system could be tied up for, in some critical circumstances, a year, two years, three years and it could go on for a very long period. And I do not think anyone here would believe that that was an appropriate outcome, because it would mean that you were imparting power, in a sense, which might not necessarily be abused but which certainly could lead to unwanted consequences.

We are saying that, under title granted by a leasing arrangement or a freehold title, some processes are followed in relation to mining tenements. We believe that those processes should flow, but the issue of the exact nature of the title should not stop that process. As the honourable member would be well aware, the Mining Act allows for exploration and reward in circumstances where minerals are found. However, if we have to wait until such time as those matters are satisfied, there are no guarantees for anyone in the system. If native title is established, if there is one particular tribe or a group of tribes that can substantiate a case for native title, there will be compensation, in the same way as there will be compensation for someone who is in a freehold situation. So, the amendments allow people to get on with the operations as well as allowing for direct negotiations. We are saying that that is an appropriate course to follow, because it creates certainty.

Our negotiations with the Commonwealth still have not been concluded on certain aspects—and the Commonwealth has been particularly tardy, but we have progressed those aspects as quickly as possible—but there does not seem to

have been any particular problem with this aspect of the legislation. That is the best I can impart to the honourable member at this stage. I do not know whether we will get further feedback: the Commonwealth has had plenty of time to respond and it appears to have given this a tick, although I never underestimate the ability of the Commonwealth to change its mind. We believe that this matter does not seem to have caused great conjecture within the halls of power in Canberra. So, they believe that that is within the spirit of the Native Title Act.

As I said, that is not the final word; the Commonwealth can change its mind tomorrow, as has been its wont in the past, but it appears that the Commonwealth is reasonably relaxed about the proposition. It is important to understand that there is no risk that the tenement will be invalid because they have not followed the technical requirements under the Native Title Act. Again we are saying that we believe this is within the spirit of what we are trying to achieve; it creates certainty; and it allows for the matter to be contested rather than left unanswered. We believe that this is the right way to go.

The matter of native titles in dispute and the conjunctive arrangements between miners and interest groups was raised. The important point is that there will be differences of opinion and the issues must be settled at some stage. We can all think of a mechanism for achieving that. The Commonwealth has said that we can go through its corridors or we can go through State corridors. We can have a means of settling differences of opinion whether amongst Aboriginal groups or between Aboriginal groups and those who might have an interest in the land, for example, the miners.

I noted the comment that negotiations have to take place in good faith. This mechanism allows that process to occur. If there is a dispute, it has to be settled, and I suspect that perhaps the greatest disputes will occur not between miners and native title holders but between groups who believe they have a traditional relationship with the land. We must have a means of settling those arguments, of bringing the parties together and negotiating in good faith. But negotiating in good faith does not mean that decisions will not be made that might not upset one or two parties. At the end of negotiations it is a matter of best fit; it is what is deemed to be appropriate, which is where people like the ALRM and other key leaders within the Aboriginal community have a great part to play.

There has to be a sorting out of what is fact and what is fiction. There has to be a sorting out of who has had access to or who has been involved in areas of land over a long period to establish historic relations. It is not appropriate for me as a member of Parliament to sort those things out. The court is structured, without the normal rules of court prevailing, to allow everyone to express their point of view. So far as can be managed in the circumstances we will have a full statement from those people or groups who believe that they have some traditional allegiance with the land and, therefore, a right to some form of native title.

I hope the Deputy Leader understands that point, that we have relaxed the conditions that normally apply, recognising that some groups may not be particularly adept at putting their own case within the legal confines, so we will not have the same rules that apply in a normal court. It means that people are there to freely express their opinions. A number of opinions may be expressed, a number of histories may be presented, and perhaps with the aid of the Commissioners, the peer groups or the groups that can assist in the process, a determination can be made. The determination may be that native title is vested in a group or, because of changes in movement of tribes, it may relate to more than one group of Aboriginal communities. If that is the case, there has to be a workable solution as to how it is handled and who will represent those groups. We believe that going through the due processes will sort out the difficulties so that determinations can be made which can be contested to the point where everyone is reasonably comfortable with the outcome from the point of view of the traditional owners.

That is the right thing to do by the Aboriginal communities, because the worst thing we can have is various tribes or communities each warring over a piece of land. Someone has to play an arbitration role in this process, which is why we have set up a court process that we believe will be constructive. The point was made that in the time available it has been difficult to consider the main arguments involved in the Bills before the House. I recognise that point because it was raised with me earlier. The contents of these Bills have been the subject of much discussion and negotiation since about April, and we have had an ongoing process here. When I was handling legislation in Opposition during the recesses I brought together the groups who had an interest and I asked them what they thought about some of the more complex Bills that lay on the table. I brought groups together and sought their opinion. I got updates from them as the position changed, so that they did not have to deal with a Bill which they had never seen and about which they had never been consulted.

In defence of the point about insufficient time, on this matter there has been more time than is normally observed in the parliamentary process in order to get the principal arguments set down on paper and judge whether the modified Bill actually meets the concerns and criticisms of interested groups. There has been sufficient time but in this area what we do in the House will not be the final statement. Legislation will be subject to contest in another place, which has its own way of dealing with legislation. I am sure the matter will be dealt with on its merits. If matters fail before this House, they will be taken up in a constructive manner in debates in another place.

I return to the point about negotiations, where we might find that groups may not want to negotiate in good faith. For whatever reasons, there might be differences of opinion. It happens within all communities. People may say, 'I can mess up the process by refusing to participate.' When we talk about negotiations and good faith, we have to get the parties around the table. We have a means of doing that and of settling the arguments. We believe we have the most constructive means available within the legislation to allow that to happen.

I commend the Opposition and my own colleagues for their comments on the Bill. A number of issues will be pursued in the other Bills that are consequential on decisions made in regard to the principal measure. I thank members for their diligence in considering the legislation, in approaching the appropriate parties and ascertaining their views. We want to achieve the best and most workable outcome. It is not a threatening process to me. To me it is about achievement. That is what the Bill is all about. I commend the legislation to the House because I believe it will again put South Australia up front in dealing with issues in a constructive and sensitive manner.

Bill read a second time.

In Committee.

Clauses 1 and 2 passed.

Clause 3—'Interpretation of Acts and statutory instruments.'

Mr CLARKE: I move:

Page 2, line 26—After paragraph (c) of the definition of 'native title question' insert—

(ca) compensation payable under a law relating to exploration for, or recovery of, minerals, petroleum or other natural resources; or

The reason the Opposition moves this amendment is that the ERD Court and the Supreme Court are being given exclusive jurisdiction in relation to native title questions. Included within their jurisdiction should be the matter of determining the amount of compensation payable to native titleholders as a result of mining operations on their land. The Aboriginal Legal Rights Movement considers that the amendment should be included so there can be no doubt on this subject. It is not clear in the Mining Act 1971 that the ERD and the Supreme Court determine the level of compensation payable, and our amendment would simply put that beyond issue with respect to matters involving native title.

The Hon. S.J. BAKER: I am certainly willing to have that matter looked at further, but on the point of law I would indicate to the honourable member that the issue of mining is dealt with under a separate Act. What we have tried to do is cleanse the process, because if we are talking about mining the honourable member might also wish to canvass some other matters in this Bill. We have tried to establish the principle of native title. The elements that flow from that in relation to mining and other issues are covered elsewhere. We wanted to provide a very simple measure. The Bill deals with the processes of establishing native title, and we believe it is inappropriate to include this issue.

I am willing to look at the argument again, but on my first reading of it I would say that, if we accept this amendment, some other areas may have to be looked at in the process. Whilst I appreciate what the honourable member is saying, my argument would be quite clearly that the measure he seeks to include is covered under another measure which will have standing within law, which will stand in its own right and which will therefore will be used to settle mining matters. We do not think it is appropriate to include this measure here.

Mr CLARKE: Given that the whole intention of this legislation—all four Bills—is to provide exclusive jurisdiction to the ERD and the Supreme Court with respect to all native title matters, should we not make absolutely clear that those two courts have exclusive jurisdiction in the area of compensation? Unless the Minister can point to a provision in the Mining Act, for example, where the ERD or the Supreme Court would be the exclusive body with which the issue of compensation would be dealt, it would seem more sensible to include it under the definition of the 'native title question'.

The Hon. S.J. BAKER: Yes; the honourable member makes a reasonable point, but 'native title question' clearly defines the framework within which the ERD and the Supreme Court will deal with a number of issues, including the native title question. The definition in clause 3(1)(c), namely, 'compensation payable for extinguishment or impairment of native title' is quite clear to me. As a matter of principle, I do not think it is appropriate, but I assure the honourable member that the matter will be looked at again and, if there is some relevant argument of enhancement to the Bill, then certainly that can be inserted.

'Native title question' covers a number of items such as the existence of native title in land, the nature of the rights conferred by native title in a particular instance, compensation payable for extinguishment or impairment of native title, acquisition of native title in land or entry to and occupation, use or exploitation of, native title land under powers conferred by an Act of Parliament, or any other matter related to native title. If the honourable member looks at the other three measures with which we are dealing he will see that they expand on that broad, reasonably bland definition. I note the honourable member's suggestion, but we believe it is adequately catered for. If we raise this we will probably have to go into far more definition within this Bill, and we believe that would be inappropriate.

Mr CLARKE: I am not letting that issue just slide by, but I note the Deputy Premier's comments about that matter and will not pursue it any further. I have a further question about the definition of 'representative Aboriginal body'. Referring to the recognition of the Aboriginal Legal Rights Movement (ALRM), the Deputy Premier said there was no difficulty with the concept of its facilitating discussions and agreement; it has standing, and recognition of the Aboriginal Legal Rights Movement is not a particular issue for the Government. I ask for an assurance from the Deputy Premier that the Aboriginal Legal Rights Movement of South Australia will be included as a representative body under the regulations proposed in paragraph (c) of the definition of 'representative Aboriginal body', which allows for representative groups to be prescribed by regulation.

The CHAIRMAN: Before I ask the Deputy Premier to respond, is this question directly related to the amendment?

Mr CLARKE: I beg your pardon, Mr Chairman; you are quite right. I have jumped from a question about the amendment to a question about the Bill.

Amendment negatived.

Mr CLARKE: I simply repeat my earlier query with respect to the definition of 'representative Aboriginal body' and ask whether it is the Government's intention to prescribe the Aboriginal Legal Rights Movement, pursuant to regulations, as provided by that definition.

The Hon. S.J. BAKER: Clearly this is the same power as is imparted in the Commonwealth Act. It would be our intention to include that body within the regulation. If it changes its name, we will have to change the regulation. We are looking at bodies which can bring groups together, and the ALRM has considerable standing.

Clause passed.

Clause 4—'Native title.'

Mr CLARKE: I move:

Page 4, lines 11 to 18—Leave out subclause (1) and insert—

(1) The expression 'native title' means the communal, group or individual rights and interests of Aboriginal peoples in relation to land or waters where—

(a) the rights and interests are possessed under the traditional laws acknowledged, and the traditional customs observed, by the Aboriginal peoples; and

(b) the Aboriginal peoples, by those laws and customs, have a connection with the land or waters; and

(c) the rights and interests are recognised by the common law; and

(d) the rights or interests have not been extinguished or have revived.

Explanatory note—

Native title revives in the circumstances outlined in section 47 of the Native Title Act 1993 (Cwth).

This is a very contentious issue for the Opposition, and the Deputy Premier has made a few points about it. For the information of the Committee, the question whether native title has been extinguished by pastoral leases and other grants

of title prior to 31 October 1975 when the Racial Discrimination Act came into effect is for determination by the courts. In particular, whether pastoral leases have wholly extinguished native title in South Australia is a very live issue. Until 1989 every pastoral lease in South Australia contained a reservation in favour of Aboriginal people so that they could follow their traditional pursuits without hindrance from the pastoralists. Section 47 of the Pastoral Land Management and Conservation Act 1989 effectively translates this reservation into statutory form.

The Opposition submits that native title subsists over pastoral land over which there is a continuing traditional connection to the extent of rights and interests consistent with those in the reservation. The Government should not be seeking to pre-empt the decision of the High Court on this issue and potentially misleading the public, including pastoralists and miners. The supposed proposition of law is of no benefit to pastoralists and will have adverse consequences for miners whose mining tenements over pastoral land will be invalid, assuming the courts uphold the subsistence of native title.

With reference to the effect of the grant of a freehold interest in land prior to 31 October 1975, there can be no doubt that in all but quite exceptional circumstances native title has been extinguished. However, where the only freehold grant has been to or for the benefit of Aboriginal people—for example, a vesting in the Aboriginal Lands Trust—it is submitted that native title may not have been extinguished.

Basically, if the Government wants to give comfort to miners and pastoralists that the mere granting of pastoral leases extinguishes native title, it does not do it. It might say so in black and white in the statute, but in law that may not be the case. We in the State Parliament cannot do much about that; the High Court will finally have to determine that one way or the other. Therefore, it is silly for this Parliament to pass laws that put something in black and white so that perhaps we can rush out and see certain constituents in our pastoral communities and so forth and say, 'This is what we have done for you.' However, if it is to be subject to challenge in the High Court, we are misleading people.

The mining industry does not believe it. The mining industry is not saying that the argument by these Aboriginal groups is correct; it is simply accepting that it is a live and contentious issue which will be sorted out one way or the other in the High Court. I understand from the Chamber of Mines, when I spoke to it yesterday on this issue, admittedly briefly, that, if this law is assented to and proclaimed at midnight tonight, mining companies will not be ripping into South Australia and spending vast sums of money when they know that this issue is still to be determined by the High Court.

Whilst I understand that all political Parties from time to time like to carry resolutions in the House or pass laws of the Parliament that might give a comfort blanket to their constituents, particularly in their heartland, we should not engage in it if we are misleading people. Looking at my notes, I see that the Deputy Premier conceded, 'If a particular group or the Commonwealth Government objects to this legislation, they can challenge it. The matter should be contested sooner or later in the courts.'

What message does that send to our pastoralists and miners or the community generally? We are passing a law which the Government knows will be contested and about which it has no ability to influence—I do not mean this in a derogatory sense; it is a legal fact of life—because it is beyond the State Parliament's jurisdiction: the High Court will sort that out. I think it is bad to pass laws which make us feel wonderful. I feel very upset for pastoralists and the like who will obtain copies of this legislation and say, 'You beauty, I have had this weight lifted off my shoulders.' Then in 18 months a High Court decision may come down saying, 'It does not matter one iota what the South Australian Parliament passed on this matter; we have determined that, because of those reservation clauses which have been in pastoral leases in South Australia over the past 150 years, native title has not been extinguished.'

I put it to the Government that the passage of this Bill will create more uncertainty. We are better off being up front. We are not kidding the South Australian Farmers Federation. The officials know that there is a big element of doubt. Frankly, it does not matter what the Commonwealth Government says about it, because it will be caught by whatever the High Court ruling is on this matter. We ought to be up front with our constituency groups and say, 'This will have to be dealt with by the High Court and we will have to live with it at that time.'

The Hon. S.J. BAKER: The member for Ross Smith has made a valiant attempt to explain something which is very difficult. His amendment is a *non sequitur*. It is worse than what we have, and it does not stand to reason. Paragraph (d) provides:

> the rights or interests have not been extinguished or have revived.

Anyone who knows a little about English and who reads that will know that if something is extinguished it has gone. If a determination has been made that it is extinguished, it clarifies it once and for all.

In the Federal jurisdiction they may wish to do it by legislation. If they do not want to take on that issue, they might say, 'We will leave it to the High Court because it made the original Mabo decision.' We are clearly saying that we know what is meant by Mabo and what the Native Title Act intends. We believe that the granting of those leases extinguishes native title. If they do not extinguish native title, the rest of the legislation prevails. So saying it has been revived is quite crazy. Even the honourable member would accept that it is crazy.

As to the issue he has mentioned, here in South Australia, as part of our pastoral leasing arrangements, Crown leases used for pastoral purposes, we have insisted that Aboriginal communities that have used the land can continue to have access to the land. I am not sure in how many other jurisdictions that is duplicated. It may well be a case of South Australia again accepting its responsibility. I do not have the other legislation available to me. However, the access to that land is there as a result of a decision made by the Parliament, the Government or whatever. Whether that flaws the argument about extinguishment is something that will have to be decided. I do not think it does. It may well cloud the water.

The granting of the lease, the honourable member would argue, could be a matter for interpretation by the High Court if that is where it goes, because nothing is put in Federal legislation. The granting of a lease may be subject to challenge as extinguishing native title. Quite clearly what we say there is that the rights or interests have not been extinguished. It is simple fact, and it is quite clear. The circumstances under which that extinguishment takes place may well be subject to challenge. I would ask the Deputy Leader to go back to his legal advisers and, if he is going to pursue this

debate, I suggest that he changes the words and thinks about where the amendment takes him in terms of the issues he has raised. We have said that we believe we know what the Commonwealth is talking about. We believe we understand what Mabo is on about. We believe we are in keeping with what the intention has been. It is either extinguished or not extinguished. If it is not extinguished, it can be challenged. If it is extinguished, it is outside of challenge.

The Hon. G.M. GUNN: The amendment put forward by the Deputy Leader, and I am quite aware of it, in my view needs a great deal more consideration before the Committee accepts it. This concept in clause 4, which is really the nub of this legislation dealing with native title, has been arrived at after a great deal of consultation by the Government and, for my sins, I have been a member of a Cabinet subcommittee which has dealt at tremendous length with this subject. In my time, over 20 years in this Parliament, it has been one of the most complex and difficult subjects with which I have personally had to deal.

I am fully aware of the complex nature of the Commonwealth Government's native title legislation, and the State Government and its advisers have bent over backwards to ensure that the provisions of this legislation and the complementary legislation fit entirely within the realms of the Commonwealth legislation. Therefore, I think we have to be very careful when we start amending this legislation, as the Deputy Leader seeks to do. There has been a great deal of discussion between State Government officials and Commonwealth Government officials to get to this stage, and a great deal of midnight oil has been burnt.

There has been a great deal of concern to ensure that whatever is done is within the realms of the Commonwealth legislation. The last thing we want to do is in any way be in conflict with Commonwealth legislation, because that in itself would only make what is already a complex issue even more difficult. I therefore believe that at this stage we ought to allow this provision to stand so that it can receive a great deal more consideration until it reaches another place. There are a number of views, and the reason I am participating in this debate is that the overwhelming majority of pastoral leases are in my electorate. I am fully aware of the concerns of that industry and those people. The only reason the Farmers Federation supported the Federal legislation was that it was given undertakings by the Commonwealth Government that, if it supported it, its legitimate interests would be taken into account.

I have in my electorate an overwhelming majority of traditional Aboriginal people. The first claim has been made with respect to land in my electorate, and I am fully aware of that claim and its significance, and the background to it. Therefore, I think it is very important that we are not only cautious but fair and reasonable and do not allow outside groups who have not been involved. The amendments put forward by the Deputy Leader are not his amendments. They are amendments put forward by another group. That group has had ample opportunity, and it has participated in discussions with Government officers but, like any of these things, when you have been given a fair go you always want to take that extra step. That is what has taken place in relation to this matter.

No-one yet has clearly spelled out what native title means. Unfortunately, the expectations of a large number of people have been raised unreasonably. People believe that native title will suddenly grant them total control over areas of land. Mr Chairman, you and I both know that that is not the case. Therefore, I think we should tread carefully to make sure that this legislation conforms with the Federal Government's native title legislation and that we in no way go outside the realms of that.

Mr Chairman, I do not know whether you and the Deputy Leader are aware of this, but very substantial ongoing discussion is taking place around this country between Governments in relation to agreed amendments in an endeavour to reach a stage where we can make this legislation workable. The legislation is through the Parliament of the Commonwealth; now it is up to the States and other interested groups to make it workable. That in itself will be no easy task. Every Government in Australia has been participating. This State Government, as usual, is leading the way. What will happen if the other States do not have their legislation in place by next year? Where will we be at? Therefore, I support the clause as it stands, and I will have some other comments to make in a moment.

Mr CLARKE: I apologise to the Committee because I have run the wrong hare. It is not an apology as such, but my notes were drawn up prior to receiving the amendments from Parliamentary Counsel this afternoon. My notes are drawn up somewhat differently to the order in which they appear in the amendments that have come through. The debate that the member for Eyre and I have just had with respect to subclause (5) is the debate we will have in respect of the next amendment. I refer to the amendment that is currently before the Chair and headed 'Clause 4, page 4, lines 11 to 18'.

I draw the attention of the Committee to section 47 of the Commonwealth Native Title Act which provides effectively for the revival of native title rights and interests extinguished by the grant of pastoral leases over an area of land where the subsisting pastoral lease over that area is acquired by or on behalf of those who hold a continuing traditional connection to it. The definition of 'native title' in the Bill does not take into account the possibility of such a revival. In other words, if an Aboriginal group buys the lease of a pastoralist where native title has existed, the purpose of the lease by the Aboriginal group revives native title rights. Section 47 of the Federal Act allows for that, and it is better, for the bureaucrats in South Australia, that that provision be included in the State legislation to avoid confusion.

I have become confused in putting the arguments with respect to my own amendment, so members can well understand the confusion that will exist among bureaucrats. Whilst I will certainly engage the member for Eyre on the points he has just made, I do apologise to him and to the Committee that I led the charge one amendment too soon. I trust that, now that I have explained the position to the Deputy Premier, he will accede to the amendment.

The Hon. S.J. BAKER: I thank the honourable member. I knew he was off track last time and I thought I would put the argument regarding the amendment.

Mr Clarke interjecting:

The Hon. S.J. BAKER: I will also have a go at you because you had not read the Federal Act. The problem is that, when members get advice on these things, the advice is quite often misleading. If the Deputy Leader reads section 47 of the Federal Act, he will know that that applies only to Aboriginals who have pastoral leases. It has nothing to do with the normal pastoral leases granted to non-Aboriginal people. That seems quite clear. It refers to 'pastoral leases held by native title claimants'. We are battling through under difficult circumstances: the Deputy Leader is not a lawyer and I am not a lawyer, but we do the best we can.

It seems to be quite clear to me that what they are saying is that, in the normal circumstances, a pastoral lease will extinguish native title. However, that is a stupid argument in relation to land where the pastoral lease is held by an Aboriginal who is one of the traditional owners. So, they are saying that native title survives. Can everybody understand that? That is my understanding. The honourable member is getting misleading information, someone does not understand, or someone is playing a mischief with the honourable member. I know that the honourable member does not like having a mischief made with him.

Section 47 is quite clear. The person who has the lease also has native title under those circumstances, but they are very peculiar and particular circumstances. Can I suggest to the honourable member that we will look at the argument he has put forward and, if there is any relevance or materiality to the proposition, we will have it examined again but, from my point of view, he is about 180 degrees off course at this stage.

Mr Clarke: So, you are not going to accept that?

The Hon. S.J. BAKER: That is right.

The Hon. G.M. GUNN: We have reached an interesting stage, because the very basis of the support from the pastoral industry and others was on the understanding that the Prime Minister, in his second reading explanation on this matter, clearly indicated that, when a pastoral lease was granted, it extinguished native title—clear and unequivocal. I refer the Deputy Leader of the Opposition to the Premier's ministerial statement of 21 April. I am not used to making speeches: I get quite nervous.

Mr Clarke: You are getting unruly.

The Hon. G.M. GUNN: Yes, quite unruly. This is what the Premier had to say in his ministerial statement:

> For example, the Commonwealth Government is of the view that a grant of a pastoral lease prior to 1975 had the effect of extinguishing native title over that land. The Commonwealth Government has given undertakings to the pastoral industry on that assumption. The State Government's advice is to the same effect. . .

In relation to what the Deputy Leader said about the Pastoral Act, I point out that there were leases over pastoral land prior to the introduction of that Act, but section 47 of the most recent legislation provides:

> (1) Notwithstanding this Act or any pastoral lease granted under this Act or the repealed Act, but subject to subsection (2), an Aboriginal may enter, travel across or stay on pastoral land for the purpose of following the traditional pursuits of the Aboriginal people.
>
> (2) Subsection (1) does not give an Aborigine a right to camp—
>
> (a) within a radius of one kilometre of any house, shed or other outbuilding on pastoral land;
>
> or
>
> (b) within a radius of 500 metres of a dam or any other constructed stock watering point.

That is not a native title right: that is a statutory right which they were granted by this Parliament many years ago so that they would have unrestricted access across that land. Therefore, I do not think we should confuse that particular right, which was wisely conferred on those traditional people by people with a great deal of foresight. This Parliament has a tradition of being reasonable and fair in its dealings with the community.

Mr Clarke: Because we were in government for 20 years.

The Hon. G.M. GUNN: This provision was in the Pastoral Act, which stood the test of Governments. I point out to the Deputy Leader that it was the Tonkin Liberal Government, with you, Mr Chairman, as Minister for Aboriginal Affairs, that enacted the Pitjantjatjara land rights legislation. Having participated in all those discussions, I have some knowledge of these matters.

In relation to clause 4 of this Bill, I am of the view that we have to clear up the uncertainty once and for all so that everyone knows what the guidelines and the rules are, so that people can get on with their life and so that development is not restricted or prevented. If there is any criticism to be levelled, it is at the Commonwealth Government, because its legislation was not precise enough. Having given undertakings and raised expectations—and it set out to raise the expectations not only of the Aborigines but of the pastoral industry and everyone else—in some cases it has pleased no-one but has created a great deal of confusion. That is why there are some 200-odd agreed amendments currently under discussion. Therefore, I believe that we ought to leave this clause as it is, because it is strictly in conformity.

There has been a great deal of correspondence between the Commonwealth department, State officials and the Government in relation to this issue and many others. We should let it rest and test it: the last thing in the world we should do is unreasonably or unfairly raise people's expectations. Members might have seen the *7.30 Report* tonight. What the Deputy Premier said a moment ago raises the issue that it is all very well to say that a particular group has the right to native title, but what happens when there are two or three competing groups?

We all know what has taken place in Marree, and we saw it again on television tonight. Heaven help me, I have had a tremendous involvement with that group, but who will make the determination? That pastoral lease has perhaps a far more legitimate claim to native title than any other, because an Aboriginal family actually owned that pastoral lease but they cannot agree amongst themselves who should have it. I have sat down with them and tried to resolve the matter and, with the best will in the world, it is a fairly testing escapade. Therefore, I believe this clause is precise, it is the basis of a good understanding and we should leave it as it stands.

Mr CLARKE: I simply restate my arguments with respect to the amendment, despite the comments of the learned Deputy Premier. With respect to this legislation, we still assert that section 47 of the Commonwealth Native Title Act provides for the revival of native title, rights and interests extinguished by the grant of pastoral leases over an area of land, and so on. I will not take up the time of the Committee but merely emphasise my earlier remarks.

I cannot remember whether it was the Deputy Premier or the member for Eyre—probably both—who questioned the Opposition's legal advice. That is very dangerous water because, quite frankly, I certainly would not attack the legitimacy of the advice that the Government receives with respect to Crown Law or any of its other legal officers. They do the best they can to interpret the legislation and the wishes of the Government of the day. Likewise, any other lawyer is entitled to his or her opinions and, until the High Court rules on this issue, the advice of the Attorney-General is no more relevant than that of someone who has just graduated from law school—a little more experienced perhaps, in terms of the Attorney-General's concern. But in terms of the actual advice, the High Court will ultimately rule on that.

I suppose I am straying a little bit into the debate we are about to have relating to clause 4(5), but the contributions made by the member for Eyre and the Deputy Premier on this matter further colour the whole issue of there being a great

area of doubt. Rather than this legislation ending doubt for all concerned, it merely helps perpetuate it, hence the reason for the Opposition amendments. I will leave it there and ask the Deputy Premier to recognise my superior legal advice or my superior legal knowledge over his own.

The Hon. S.J. BAKER: I respond by saying that, if I did get legal advice—and I quite often did—in opposition, I usually understood that advice: before I put up the argument, I knew what I was talking about. Nobody could deny that, when we got into debate, I did not press the point hard on the basis of the information I was given. If the Deputy Leader is going to run the legal argument, he should understand it. I reject the amendment.

The Hon. G.M. GUNN: This has been a particularly interesting debate, and the Deputy Leader appears to have taken exception to my comments, and that is his absolute and unfettered right.

Mr Clarke interjecting:

The Hon. G.M. GUNN: That is right. It is good sport and I like nothing better than a bit of a box on the floor of the House. In relation to the advice given to the Deputy Leader, I know the people who are advising him. I have known them for many years, and I cast no aspersions upon their qualifications whatsoever. I have no doubt they are representing their clients with due diligence, and they are to be commended for it, but the Deputy Leader completely misunderstood the point I was making. We saw the exact same thing take place when the Pitjantjatjara land rights legislation was debated—people were given not only a good deal but certain people wanted to get their foot a bit deeper into the pond.

In relation to the legal advice given to the Government, let me say to the honourable member, having sat on this committee, that we were inundated with the most distinguished legal advice: I would hate to have personally paid for it. We had advice from the Solicitor-General, the Crown Solicitor, a distinguished QC and other legal advice—the whole gamut of advice available. That advice has been—

Mr Clarke: Was it unanimous?

The Hon. G.M. GUNN: Has the honourable member ever had unanimous advice from lawyers? The advice has been lengthy and it has taken a great deal of time to reach this stage because, if there has been any block in the system, it has been with the Commonwealth Government.

Mr Foley interjecting:

The Hon. G.M. GUNN: It has been with the Commonwealth, because the Commonwealth Government and its advisers have been slow to react and slow to respond, and they have been unclear. This legislation could have been to the Parliament a lot earlier to ensure that we were in conformity with the Commonwealth legislation. In my judgment, the Commonwealth Government should have got its act together more quickly and triggered the State on the basis that the State wanted to cooperate with the Commonwealth Government. The State Government has done everything possible to meet the requests and the aspirations of the Commonwealth Government. It has been slow to respond. It has been amazing that it has been so unsure of itself in this matter. I believe we are taking a very important step in relation to this Bill, particularly this clause, and it should remain as printed.

The CHAIRMAN: Before putting the amendment moved by the Deputy Leader, the Chair has to comment upon what it considers to be awful drafting: the Committee is asked to omit subclause (1), lines 11 to 18 and then to reinstate subclause (1), lines 11 to 18 in their entirety, with the addition of the three words 'or have revived' in line 18 after the word 'extinguish', where the full stop is omitted. The better way, therefore, would simply be to put the amendment moved by the Deputy Leader as follows: page 4, clause 4, line 18, after the word 'extinguished' that the words 'or have revived' be added. And does the Deputy Leader wish to add the explanatory note in his amendment?

Mr CLARKE: The explanatory note is important, because it directly relates back to section 47 of the Commonwealth Act, contrary to the Deputy Premier's opinion with respect to section 47 and what it does or does not mean. We believe it certainly has the meaning that I have already outlined in my contribution. The Deputy Premier said that it expands the revival and was all encompassing. It is not as broad as the Deputy Premier was suggesting. The focus is narrowed down to the meanings contained in section 47 of the Commonwealth Act, hence the best way of explaining it is the explanatory note.

I point out that I would not criticise Parliamentary Counsel: it does a terrific job under intense pressure. The Government set down the timetable for debate on this Bill, and Parliamentary Counsel had to work flat out, having only a couple of days from the time it received my drafting instructions to get it to me so that I could check and return it in the space of a few hours. It does a fantastic job.

The Hon. S.J. BAKER: The Commonwealth legislation takes precedence over State legislation, and the honourable member understands that. If the honourable member had understood the legislation in the first place, he would have simply gone along to Parliamentary Counsel, rather than giving them the clause *en bloc*, and said, 'I want these three words added plus an explanatory note.'

Mr Clarke: I didn't; I told them what the instructions were.

The Hon. S.J. BAKER: You did not know what you were doing.

Mr Clarke: Yes I did.

The Hon. S.J. BAKER: That is the problem.

Mr Clarke: No; you are being an oaf again.

The CHAIRMAN: Any debate on instructions to Parliamentary Counsel is really irrelevant; it is the comment of the Chair, which is simply pointing out that in clause 4 (page 4) line 18, after the word 'extinguished', we add the words 'or have revived'. This being the amendment moved by the Deputy Leader, the question before the Chair is that the three words 'or have revived' plus the explanatory note be added, and that the amendment be agreed to.

Question negatived.

Mr CLARKE: I move:

Page 4, lines 31 to 33 and page 5, lines 1 to 3—Leave out subclause (5).

The Hon. S.J. Baker: You're back on track.

Mr CLARKE: That's right; I am back on track. I have the order right. What I said earlier about clause 4(5) is relevant today. I am looking for the member for Eyre, but he is not here at the moment. I will not go through all of the points that I made previously. The contributions of both the Deputy Premier and the member for Eyre, which were made when we were off track and debating this current amendment in lieu of the previous one, amplify the point that the Opposition has been making all along; that is, we are adding confusion for the general public.

The cartoon strip, *Peanuts*, contained a character called Linus, who always used to walk around with his comfort

blanket, and I find it extraordinary that this Government knowingly is passing legislation so it can go out to the pastoralists and miners and say, 'Look here, all of you Linuses, wear this comfort blanket,' when it knows that it is a live issue; it is going to be determined by the High Court, and what is passed by this Parliament is irrelevant. Subclause (5) misleads people when it provides:

> To avoid doubt—

and there is this use of grandiose sweeping statements—

> (a) the grant of a freehold interest in land; or
> (b) the valid grant of a lease (including a pastoral lease but not a mining lease); or
> (c) the grant, assumption or exercise by the Crown of a right to exclusive possession of land,
>
> at any time before 31 October 1975 extinguished native title.

That is in black and white, and you cannot blame a pastoralist or a miner who, upon reading that legislation, says, 'If that's what the Deputy Premier and the Government of South Australia say is the law, I'm entitled to rely on it.' At the same time the Government is saying that the contributions to date echo the view that the Opposition has expressed and that is that, although we might say that now, at the end of the day the High Court might say, 'It's very nice that the Deputy Premier has put this into a piece of legislation, but it amounts to nought; we have decided that the mere granting of a pastoral lease does not extinguish native title, for the reasons we have outlined.'

What do we do to those pastoralists and miners who have legitimately looked at this legislation and thought that they were protected? At the very least, the Government could include an explanatory note saying, 'P.S. This is a comfort blanket; we hope you feel good about it, but it actually means not a brass razoo at the end of the day; it is up to the High Court; go and talk to your lawyer; your guess is as good as mine.' At least that is being honest with the general community. The Government has not fooled the mining industry; it knows that the passage of this legislation means nothing. It creates false expectations. The member for Eyre said that we should not create false expectations among people in the community, but that is what this legislation does. By deleting subclause (5), we are saying to the community at large, 'This issue has yet to be resolved by the High Court; when it has been decided, you will soon hear about it.' But the Government should not pass meaningless legislation such as this and mislead people.

The big mining companies are not going to be misled; they are not going to invest the dollars the Government thinks they might, because they know that their tenements may be found to be invalidly granted to them. This legislation does not create any certainty for them. If the Government thinks it is being kind to people, it should be aware that it is actually being cruel to people by pretending that it is actually giving them comfort when it is giving them none whatsoever. Let us be frank and honest about it. For all the reasons I have asserted before, I urge the Government to reconsider its opposition to this amendment. It can be arrogant about it and say that 36/11 wins every time and that it will just roll through all these amendments, but I can assure the Government that it will not roll them all through the Legislative Council.

The Hon. S.J. BAKER: I was going to say that the honourable member is full of something or other, but that would be unkind. He has regarded himself as an industrial advocate; he has battled it out among the heavies; he has prided himself—

Mr Clarke interjecting:

The Hon. S.J. BAKER: Don't talk about misleading; if you are in the Industrial Court, you mislead all the time. So, the Deputy Leader is saying that he is skilled in the knowledge of the law, what we are trying to impart with the law and how the law will be in interpreted. If we include this in the legislation—and it is in keeping with the statements that were made at the time by the Prime Minister of this country—and if the Federal Government has a problem with it, it can contest it; it can do it with the latest round of amendments that it will have to think about; it can insert it in its own Act; or we can have it contested. But it is absolute garbage for the honourable member to suggest that if we leave it open everyone is better off.

One of the problems is that these little fellows we call High Court judges made a decision and left the door open, and there have been a number of interpretations about how far the decision extends and what it actually means. So, it was translated into legislation. At the time the legislation was passed, the statement was made—and we and everyone else have relied upon that statement—that the anti-discrimination legislation is the point at which no Government could act against the interests of a particular group for reasons of discrimination. So, the interpretation is there and we are clarifying that matter.

The honourable member's suggestion that, because we have included the date of 1975, we are actually muddying the waters, does not stand to reason. We are talking about everything that has gone on before 1975, to which the honourable member might want to open the door. He might say, 'I want every pastoral lease in South Australia contested.' I do not know what he is saying; I would like to know what he is saying.

Mr Clarke interjecting:

The Hon. S.J. BAKER: I would like to know what he is saying. If he is saying—

Mr Clarke: I am saying, 'Don't deceive people.'

The Hon. S.J. BAKER: No; hold on a second. The honourable member cannot have it both ways. If he is saying that it is the view of the Labor Party that every bit of dirt that has ever been under Crown lease is contestable, let him say so before the Parliament. I do not believe that it is the view of the Labor Party; I do not believe it is the view of the Aboriginal community; I do not believe it is the view of the people of South Australia. The facts of life are that, if we have said that 1975 is the appropriate date and that all actions beyond that point are open to the issue of compensation—which is a matter yet to be determined on the rules, quantum, etc., which we are trying to address here—at least we are saying this is what we believe.

We understand from statements made by the Prime Minister and our little friend the Minister for Aboriginal Affairs that this is the date when the matter becomes contestable. We have inserted that on the word of the Prime Minister of our country. As to giving people a level of comfort, we are talking about the people who have had some associated action prior to 1975. Beyond 1975 it is the same issue. The Deputy Leader is not understanding the position and should go back to the people who claim we should not include it in the legislation.

We believe that we are acting in good faith and within the spirit of the Mabo decision. We believe we are acting within the spirit of what the Commonwealth has laid down. We have inserted the provision in the legislation. If we fail to do that, the Deputy Leader's argument will be, 'At some time or

other, we'll have it contested'; it might be in five or 10 years time, or we may go through a long period when the most pressing issues are challenged, discussed and worked through and this other matter will be left a little further down the track. Then in 10 years it will be crunch time again because there is a lack of clarity. The Deputy Leader is not unintelligent and I would have thought he wanted the issue clarified. Either the Commonwealth mirrors this in its legislation with the amendments it has to make or else it is adjudicated on; if it does not choose to do so, it is adjudicated on through a challenge set up by the Government or particular groups to contest the matter. The sooner we sort it out the better.

That is why we want to sort it out. It is there and we will find out fairly soon whether that is the strict interpretation of the intention. That is a good way to find out one way or the other whether we are on solid ground. The Committee should be clear what the Government's intention is. We have relied on a number of statements made and, consistent with them and with what we believe is the intention, we have laid down the date. That is a smart way of operating.

Mr BRINDAL: I presume that the member for Ross Smith, like all of us, was elected to represent his electors first and the people of South Australia second and I am surprised at the extraordinary contribution he makes which amounts to an apologia for centralist policies that belong better elsewhere than in this Chamber. As I said in my second reading speech, I am slightly worried about his speech. First, does the Deputy Premier believe it is the right of this Government to pass such legislation as a sovereign Parliament and, secondly, is the Government acting in good faith in doing so?

The Hon. S.J. BAKER: First, it is clear that it is appropriate. In fact, we are almost bound to bring this legislation forward for the very reasons I outlined at the beginning of the debate. Yes, this legislation is undertaken in good faith because, to do otherwise, leads to conflicts which will mean that some of these issues that we believe can be settled amicably will last for another 10 or 20 years. We believe the principles have been laid down and we want to make them workable. We are attempting to make them workable under grave difficulty and we are not being helped by the Commonwealth Government. We expect it to respond.

We have been having ongoing negotiations on these issues, which will become more transparent. We believe we are on solid ground, and we are acting in good faith. We want to advance the issue so it is not a matter of fights, aggravation, dissension and division within the various communities. Everyone should understand that. We are not trying to do anything underhanded. In fact, we are quite up front and I thank the member for Unley for his question. We are purposefully clarifying the issue so that it is not an issue in the future.

Mr CLARKE: I am pleased about one aspect of the Deputy Premier's answer. He realises this is a live issue which will not be determined here but by the High Court. The Deputy Premier realises that subclause (5) is inserted by the State Government simply as a device to create conflict.

The Hon. S.J. Baker interjecting:

Mr CLARKE: No, that is what you said. You said it was a deliberate act on the Government's part to bring this matter to a head in regard to the High Court. The Government is willing to legislate deliberately in this area, pretending to its own supporters, pastoralists and so forth, that it is looking after their interests, but it is simply to create a circumstance in which the matter is brought to the High Court. It would have gone to the High Court in any event; basically it is before the High Court now with respect to the Western Australian challenge. It is expected that it will have dealt with these issues by April next year.

The Government did not have to go through this exercise, but at least the Deputy Premier has made it clear that the Government does not believe in subclause (5). It believes that that is what the intention or the law should be, but the Deputy Premier has admitted that he does not pretend that this will be the law from the day the Bill is assented to, because the matter will be dealt with in the High Court. The Deputy Premier's comfort blanket is simply something he can wave to the Government's pastoralist friends and say, 'Look, we've done something wonderful for you', when, in fact, it is done for a far more cynical purpose.

The Hon. S.J. BAKER: The Western Australian challenge is about the obliteration of the Native Title Act, whereas the process we are following here is an accommodation of that Act. Secondly, the High Court will become relevant—and the Deputy Leader does not know what he is talking about—only if the Federal legislation leaves the question open. I understand that a number of amendments are on the drawing board but everyone is scared to touch the Act. There is this great morass now concerning where certain issues will be clarified in the Act.

Mr Clarke interjecting:

The Hon. S.J. BAKER: That is irrelevant.

Mr Foley: That's the point.

The Hon. S.J. BAKER: The member for Hart has not been present for the debate.

Mr Foley: I've been listening upstairs.

The Hon. S.J. BAKER: I will not comment on that. We are acting on the best advice available from the Prime Minister of this country—that is all we can go on—and we have inserted the provision in the Bill.

Members interjecting:

The Hon. S.J. BAKER: He expresses the intention of the Government. I will not talk about his budgetary strategy and all the other things with which he is making a mess of the country, because that is irrelevant to the debate. We have simply relied on statements made in the Federal arena and we have translated them into this Bill. It is appropriate that the Commonwealth either nod its head vigorously or say, 'Hang on, we don't want a bar of this. We want to start the whole process again. Until we put it in there we believe we are right. We believe that the advice provided is absolutely right, so we believe we are on rock solid ground.'

Under those circumstances, it is absolutely appropriate that we put it in the legislation. If we do not, perhaps the High Court or more importantly the Federal Government will have to resolve the issue, and that is appropriate. Anyway, the honourable member will just keep going around the same circle. We are wasting the time of the Committee; the statements have already been made.

Mr FOLEY: I would like to make a contribution on this issue. I have listened to and watched the debate. The Deputy Premier can bow his head. The reality is that I have been watching the Mabo debate for some time now, having been present at a number of meetings at the initial stages of the conference of State Premiers and the Prime Minister some two to 2½ years ago when the first attempts were made to thrash out a resolution in respect of the Mabo decision. The Federal Opposition's position on Mabo is extremely relevant to this debate, because the Federal Opposition has not been as accommodating as the State Government.

I am prepared to acknowledge that this Government has not been as red-necked as the Government in the west has been. This Government at least has shown an ability to sit down and in some way work towards a mutual position on this. If the Federal Coalition had been prepared to sit down with the Federal Government and constructively work through a solution to Mabo, we would have had the quality legislation we were looking for. Unfortunately, due to the political imperative of the Federal Coalition at the time, it chose to take not a constructive but a destructive role.

The reality is that Mabo is the invention not of the Federal Government nor of the Federal Parliament; it is the result of a High Court decision. You cannot ignore a High Court decision; you cannot dismiss it as simply a decision of an irrelevant body. The High Court of this country has made a ruling, and it is incumbent upon the Federal Parliament to provide a legislative and legal framework with which to deal with that decision. Unfortunately, one of the few opportunities in this nation's history to achieve a constructive piece of framework legislation was lost when for whatever reason the Federal Coalition abrogated its responsibility to sit down with the Federal Government and work through a collective response to Mabo which in the best part would have clarified everyone's concern. That did not occur in the Federal Parliament, and that is why we now have a lot of these consequential problems. I acknowledge that this Government has not been as red-necked as the Government in the west has been. For the best part (but not completely), this Government has been prepared to work towards getting some constructive State legislation.

Mr Clarke: I can't praise him at all.

Mr FOLEY: I am not praising the Deputy Leader; I am simply saying that in part the Government has been constructive. All anybody has wanted from the Mabo legislation is certainty. All governments, the mining industry, the pastoralists and most definitely all the Aboriginal community have wanted (and, let us face it, they have taken 200 years to get it) is a degree of certainty. Nobody is arguing that they do not want certainty.

What concerns me about this clause is that not only is it simply political window-dressing—a political attempt at least to placate the pastoralists—but also it is a very dangerous clause. I say that in all sincerity and not for any political point scoring. If we have in our State Act a clause that provides that native title is extinguished in our pastoral leases, if I were a pastoralist, a banker or financial institution lending to a pastoralist, a small business in Coober Pedy, Marree or wherever else in pastoral country and I dealt with a pastoralist, I would think the pastoralist had title and security of tenure, because there is a State Act of Parliament that tells me that it is okay. The reality is that this may be subject to a High Court challenge, although there is always a chance that it will not. The High Court will decide whether this is valid. It will not be the State Legislature of South Australia: it will be the High Court.

What concerns me about this clause is that it offers a false sense of security to a banker, a business or anyone else. In fact, in 12 or 18 months the High Court may well overrule the State Legislature, as it is entitled to do. We may pass this clause and give this comfort to the pastoralists and the people with whom they trade and in 12 or 18 months the issue may be turned over. I think that is unfair and unwise. My view is that we should be silent on this issue in the state legislation. The mining industry is not fussed too much by this legislation. I have dealt with the pastoralists; I dealt with them at the time, and I know what this clause attempts to do. The Deputy Premier can scoff, bow his head, mutter or do whatever he likes, but I know what the pastoralists are saying. The Deputy Premier can also sit here and put his weight behind the Crown Law advice.

I have dealt with Crown Law for many years and in the main I respect Crown Law advice. I respect that advice as I respect any legal advice. You have to take it for what it is; it is not always correct. Crown Law also advised former Governments about this very issue and took a different position from that which it is advising the Government today. That is not to cast an aspersion on the quality of Crown Law advice; it is to make a point about the dynamic nature of the issue we are dealing with. Opinion and interpretation can change. The issue changes; it is a dynamic issue. Crown Law may well be advising the current Government to put this clause into legislation. I doubt that there is a minute signed off by Crown Law imploring the Government to build this into its legislation.

This is a political clause; I do not believe it is a Crown Law clause, but I do not know that for a fact, so I will not say that. The advice Crown Law is giving today is not the advice Crown Law was giving two years ago. That is no criticism of Crown Law; it is a reflection on the dynamic nature of the issue. It is one lawyer's opinion in Crown Law against another lawyer's opinion in Crown Law. It is one private legal firm's opinion against another private legal firm's opinion. It is the Deputy Premier's opinion against mine. The reality is that Mabo is such dynamic, unknown territory that we can all have an opinion.

The bottom line to our opposition to this clause is simple; namely, if we pass a law in this State Parliament that is proved by the High Court in 12 or 18 months to be wrong, we may well have introduced some unintended consequences to those people who have backed the State law against Federal law or the High Court. I say to the Minister that I certainly acknowledge that the State Government has made a genuine attempt to deliver where possible complementary and constructive legislation on Mabo. I only wish his Federal colleagues had the same approach; we would not be here tonight. We have to be very careful with this clause that we do not have unintended consequences. I would ask the Deputy Premier to look very carefully at that point.

The Committee divided on the amendment:

AYES (8)

Atkinson, M. J.	Blevins, F. T.
Clarke, R. D.(teller)	De Laine, M. R.
Foley, K. O.	Hurley, A. K.
Rann, M. D.	Stevens, L.

NOES (26)

Andrew, K. A.	Armitage, M. H.
Baker, S. J.(teller)	Bass, R. P.
Becker, H.	Brindal, M. K.
Brokenshire, R. L.	Brown, D. C.
Buckby, M. R.	Condous, S. G.
Greig, J. M.	Gunn, G. M.
Hall, J. L.	Ingerson, G. A.
Kerin, R. G.	Kotz, D. C.
Lewis, I. P.	Meier, E. J.
Oswald, J. K. G.	Penfold, E. M.
Rosenberg, L. F.	Rossi, J. P.
Scalzi, G.	Such, R. B.
Venning, I. H.	Wade, D. E.

Majority of 18 for the Noes.

Amendment thus negatived; clause passed.

Clause 5—'Jurisdiction of Supreme Court and ERD Court.'

Mr CLARKE: I move:

Page 6, after line 11—Insert—

(4) The same procedural and other rules apply to both the Supreme Court and the ERD Court in exercising jurisdiction to determine native title questions.

Explanatory note—

For example, the same rules about costs would be applied by both courts.[1]

[1]See section 29 of the Environment, Resources and Development Court Act 1993.

This amendment should be relatively simple for the Government to see some sense in and agree to. In response to my eloquence, the Deputy Premier has indicated that he agrees to accept the amendment.

Amendment carried; clause as amended passed.

Clauses 6 to 17 passed.

Clause 18—'Registration of claims to native title.'

Mr CLARKE: I move:

Page 10, line 7—Leave out 'reasonably ascertainable by' and insert 'known to'.

This is another sensible amendment, as they all are, and even the Government will recognise that. As I have not seen the immediate nodding of the head by the Deputy Premier, I had better explain it. The purpose behind this amendment is that the onus on an applicant to provide in the application 'all information reasonably ascertainable' could prove to be excessively onerous. Certain information is ascertainable only after many days or weeks of research, but it could still be argued that the information is reasonably ascertainable. We are also making the submission in relation to the requirement for an applicant who is seeking a declaration that native title does not exist. We have a later amendment with respect to that. We are seeking to use the same words.

The words 'all information reasonably ascertainable' could involve a great deal of hardship and excessive cost to applicants, whether a mining company or an Aboriginal group ascertaining whether native title is held over a particular piece of land. The Commonwealth Government's regulations use the words 'known to.' If the Deputy Premier is only partly persuaded, not 100 per cent, towards my use of the words 'known to,' I proffer another suggestion as a halfway mark and in the spirit of bipartisanship, namely, 'after reasonable inquiry.' That is not as strong or stringent a test as the Government has put forward in 'all information reasonably ascertainable' but the words 'after reasonable inquiry' have a degree of reasonableness in that they have to do something about it, not just simply known or known to. It is not quite as stringent a test as the Government has put forward and it would go some way towards meeting our opposition. It is not perhaps quite as—I will not say generous—loose as the Government might view my original amendment. I would be interested in the Deputy Premier's views on those words.

The Hon. S.J. BAKER: I accept the spirit with which the amendment is made, so I do not discount it as I might one or two others. The question is what the intent of the Parliament is and what we are trying to achieve. Those words could result in greater dilemmas. It may well be that he actually has a memory lapse or does not tell everybody what he knows. Whatever words we use are subject to interpretation or misinterpretation. I do not reject the proposition put forward by the honourable member. This issue of the words has been thrashed around for some time. I assure the honourable member that the matter of the wording will be looked at again: 'reasonably ascertainable by' is reasonable wording and reflects the intent of the Parliament, but I will let the greater minds look at this—

Mr Clarke: I have already looked at it.

The Hon. S.J. BAKER: He keeps ruining himself, doesn't he. We will have those who are more versed in legal matters look at the amendment to see whether the wording can be improved along the lines suggested by the honourable member.

Amendment negatived.

Mr CLARKE: I move:

Page 10, lines 11 and 12—Leave out paragraph (f).

Clause 22 identifies the purpose of a registered representative. A registered representative does not have a function until native title has been determined to exist. It is quite unnecessary and an unreasonable cost imposition to require that a body corporate be established when its existence may subsequently be held to be unwarranted, that is, upon a determination that native title does not exist or at least is not held by the applicants. It is a fairly simple amendment in that regard.

The Hon. S.J. Baker interjecting:

Mr CLARKE: If it is deleted, it is not a problem. Clause 22 sets out the body corporates, the names and so on. It is quite extensive.

The Hon. S.J. BAKER: I am sure that the honourable member is referring to the issue of who actually becomes the registered person if title is granted, and the other question, when a claim is made, is who should register for all the information in relation to that claim. You have to have a starting point and a person to whom you can refer any questions, queries or correspondence. It is quite a sensible amendment. It is mirrored in the Commonwealth's legislation, and there may well be some confusion between the process of registering a claim and the acceptance of a claim and creating native title. If the honourable member would like to reflect on that and advise, there may be a deeper point which the Committee should consider and which he may like to reflect upon in the passage of the Bill between the two Houses. This provision is mirrored in the Commonwealth legislation. The honourable member would understand we do need a name and address in the system to which we can provide information or from which we can get information.

Amendment negatived; clause passed.

Clause 19 passed.

Clause 20—'Application for native title declaration.'

Mr CLARKE: I move:

Page 11, line 11—Leave out paragraph (c) and insert—

(c) state the nature of the declaration sought by the applicant and the grounds on which the declaration is sought; and

An application for declaration that native title does exist must include a statement of the basis on which native title is asserted. That is under clause 18(3)(d).

The Hon. S.J. BAKER: The amendment is acceptable.

Amendment carried.

Mr CLARKE: I will not pursue my other amendment to this clause as the Deputy Premier has said that the Government will review the use of the words and consider my suggestion with respect to clause 18.

Clause as amended passed.

Clause 21—'Hearing and determination of application for native title declaration.'

Mr CLARKE: I move:

Page 12, after line 5—Insert:

(3a) A native title declaration is, subject to any qualification stated in the declaration, conclusive except in proceedings by way of appeal from the declaration or for variation or revocation of the declaration.

The Hon. S.J. BAKER: The Government accepts the amendment.

Amendment carried; clause as amended passed.

Clauses 22 to 24 passed.

Clause 25—'Protection of native title from encumbrance and execution.'

Mr CLARKE: I move:

Page 13, lines 20 and 21—Leave out paragraph (b) and insert—

(b) cannot be taken in execution under the judgment of a court unless the native title is, under the terms of a dealing authorised by regulation, liable to be taken in execution under the judgment of a court.

The Hon. S.J. BAKER: The Government accepts the amendment.

Amendment carried; clause as amended passed.

Clause 26—'Service on native title holder where title registered.'

Mr CLARKE: I move:

Page 14, lines 4 to 7—Leave out subclause (1) and insert—

(1) If native title is registered under the law of the Commonwealth or the State, a notice or other document is validly served on the holders of the native title if the notice or other document is given personally or by post to—

(a) their registered representative; and

(b) the relevant representative Aboriginal body for the land.

I do not know whether the Premier has been overwhelmed by my eloquence. The apparent purpose of clauses 26 and 27 is to provide for two different types of service requirements. Clause 26 is designed to deal with the serving of notices and other documents where there has been a comprehensive declaration of all native title, which excludes the possible existence of other native title in the land in question. I refer to clause 21(3).

Clause 27 is designed to deal with circumstances in which there is continuing uncertainty as to the existence of native title or as to the identity of all the native title holders. It is, accordingly, inappropriate for clause 26 to refer to the service of notices on native title claimants. It should be applicable only to service where there are registered native title holders. The requirement for service to be effected on the relevant representative Aboriginal body, in addition to the registered representative, provides a reasonable safeguard against the possibility of the registered representative misplacing a notice or failing to recognise or appreciate its significance in the effective time limitation it imposes.

The Hon. S.J. BAKER: Again, the Government appreciates the reasons why the amendment is put forward and we will consider it before the Bill is debated in the other place. We think that the honourable member might be excluding an important area, including claimants where there may be some residual interest, but I will have the matter looked at. It appears to have a flaw in it, but it may well be that, by looking at it in conjunction with what the member has suggested, there may be something that is quite acceptable.

Amendment negatived; clause passed.

Clauses 27 to 35 passed.

Clause 36—'Confirmation.'

Mr CLARKE: I move:

Page 18, lines 7 and 8—Leave out subclause (3) and insert—

(3) All existing fishing access rights under the law of the State prevail over any other public or private fishing rights.

Section 212 of the Native Title Act allows the State—

The Hon. S.J. BAKER: I agree. I am overwhelmed by the influence of the Deputy Leader and the extent of his research. He is absolutely right that the original wording of the Federal Native Title Act includes 'access'. We are not sure what it means, but we are willing to say that there should be some conformity in these definitional areas. We are willing to accept the amendment.

Amendment carried; clause as amended passed.

Clause 37, schedule and title passed.

Bill read a third time and passed.

SECOND-HAND VEHICLE DEALERS BILL

Received from the Legislative Council with a message drawing the attention of the House of Assembly to the schedule, printed in erased type, which, being a money clause, cannot originate in the Legislative Council but which is deemed necessary to the Bill. Read a first time.

ADJOURNMENT DEBATE

The Hon. S.J. BAKER (Deputy Premier): I move:

That the House do now adjourn.

Mr ATKINSON (Spence): I mourn the passing of Karl Popper, the author of the two volume *The Open Society and its Enemies*. Karl Popper died last month at the age of 92. He had outlived most of his friends and his academic adversaries. Karl Popper was renowned for his debunking of large scale laws of historical development, which he called historicism. His attack on historicism served to undermine Marxism, which was the fashionable political doctrine of the century. He wrote:

> We may become the makers of our fate when we have ceased to pose as its prophets.

Karl Popper exposed the intellectual roots of totalitarianism as convincingly as George Orwell or Arthur Koestler. He is remembered also for his argument that science advanced by a hypothetico-deductive method rather than an inductive method. According to Popper no collection of examples of A being B, however big, can prove that all As are Bs. All theories are disprovable. Positivists were wrong to suppose that scientific theory could be developed by a mechanical routine of inductive generalisation. Science was best advanced, according to Popper, by learning through mistakes and by the process of falsifying theories and making new hypotheses.

Falsification, not verification, ought to be the object of scientists. Imaginative conjecture was the way forward and a theory could prove its worth only by withstanding our efforts to refute it. 'The overthrow of theories is the vehicle of scientific progress', he wrote. For Popper, Marxism was pseudo-science and, together with psychoanalysis, formed the two great intellectual superstitions of the century. Karl Popper was born into a cultivated Viennese family in 1902 in the final era of Hapsburg rule. He managed to educate himself during the collapse of Austria-Hungary and he was much influenced, as were so many in these circumstances, by the theories of Karl Marx and by political movements claiming to inherit from him, socialists and communists.

During the turmoil of 1918 he witnessed socialists attacking a police station to free communists inside. Rather than be caught up in this, the incident cooled his ardour for

political zealotry. He reflected on the value of a political ideology that could demand of its adherents that they die for the cause. In 1937 he left Austria to teach philosophy at Canterbury University College, Christchurch, New Zealand. He is remembered there for forcing open the door for research at a time when the college's academics were expected only to teach. Popper sought more rewarding academic posts, but could not be appointed to Sydney University because he was an enemy alien.

The publication of *The Open Society and its Enemies* brought him academic renown and in 1946, through his friend Friedrich von Hayek, he was appointed a reader at the London School of Economics where he would work for the next generation. He became a British subject. He was knighted in 1965. I read just one of Karl Popper's books, *The Open Society and Its Enemies*, which came in two volumes subtitled *The Spell of Plato* and *The High Tide of Prophecy: Hegel, Marx and the Aftermath*. This book was important to Social Democrats because it gave them reasons for distancing themselves from the Left. The book also inspired Central and Eastern European dissidents from the totalitarian Left regimes in those countries.

In the 1950s the adjective 'progressive' became the code word for Communists to describe themselves and their fellow travellers. These people regarded themselves as the locomotives of history, to be contrasted with the rest of us, who were reactionaries. Popper criticised the progressivist idea that every new development in history must be reasonable, good and true and be at the apex of all previous stages in historical development. He traces that idea to Plato. In the same chapter, Popper took a swipe at National Socialism and its racialist theories:

> It has been said that a race is a collection of men united not by their origin but by a common error in regard to their origin.

Unlike so many anti-Communists of the time, Popper did not argue that there was a moral equivalence between Communism and National Socialism or Fascism. He said they had, through Hegel, nearly identical intellectual origins but he added:

> There can be no doubt of the humanitarian impulse of Marxism.

Popper thought that technological progress, the division of labour, political liberalism and economic intervention by welfarist governments had eliminated the kind of capitalism and economic misery that Karl Marx had witnessed and denounced. He was in favour of piecemeal social engineering provided State power did not become excessive. Popper thought that Plato's question, 'Who should rule?' should be replaced by the more difficult question, 'How can we so organise political institutions that bad or incompetent rulers can be prevented from doing too much damage?'

In the chaos of 1945 the Iron Curtain came down across Europe. Half of Europe chose the open society and the other half were forced to live in a closed society. Popper argued for the open society at this watershed when so many western intellectuals argued for the cosiness of the closed Marxian system of thought. Karl Popper was careful with language because he believed a common medium of communication and clarity was essential to reasoned argument. It was 1945 when he wrote:

> Use (language) plainly; use it as an instrument of rational communication, of significant information, rather than as a means of self-expression, as the vicious romantic jargon of our educationists has it. . . part of the revolt against reason.

At the time of his death the educationists were still at it. His words on love have stayed with me since the afternoon I first read them. He wrote:

> But I hold that it is humanly impossible for us to love, or suffer with, a great number of people; nor does it appear to me very desirable that we should, since it would destroy either our ability to help or the intensity of these very emotions. . . A direct emotional attitude towards the abstract whole of mankind seems to me hardly possible. We can love mankind only in certain concrete individuals.

Karl Popper was not fond of history books that dealt only with political power. He wrote that the history of power politics was nothing but the history of international crime and mass murder. I am glad that Karl Popper lived to see the Czech lands, Slovakia, Poland, Hungary, Ukraine and Russia liberated from the totalitarian Left in the revolutions of 1989-1991. Popper was a radical defender of liberty, of change without bloodshed, of trial and error and of a bold march into the unknown.

Members should bear in mind Popper's advice that all revolutions presuppose a disunited ruling class and sedition within the elite. I noticed this during the Bannon Government when, as the youngest backbencher, I was part of the first successful peasant revolt since Labor was elected in 1982. Those who, like me, admire our new juvenile justice laws ought to be grateful for the treason of a particular Cabinet minister. I do not know whether Karl Popper was a Christian but he has kind words to say about my faith. He believed that it was Christianity's greatest strength that it appeals not to abstract speculation but to the imagination by describing in a concrete manner the suffering of a man and mankind in general.

Christianity was, he argued, at the base of the individualism and altruism that had made western civilisation. Jesus Christ had asked us to love our neighbour, not our tribe or our class. 'Always recognise,' Karl Popper wrote, 'that human individuals are ends and do not use them as mere means to your ends.' This is a hard rule for politicians to obey but I thank Karl Popper for putting it before me.

Mr CONDOUS (Colton): My contribution to the grievance debate tonight relates to traffic and parking regulations within the Thebarton council. In my capacity as the member for Colton, I am continually surprised at the number of complaints I receive from my constituents about the Thebarton council. Most of the complaints stem from parking and traffic matters, but the anger of the people is directly due to the manner in which they are treated by the Thebarton council. I telephoned the council recently and discovered that customer and ratepayer relations barely exist.

I was representing one of my constituents who is a respected member of our community and a woman who has dedicated some 50 years of her life to the youth of South Australia and to athletics. She came to see me with a summons she had received from the Thebarton council. She had driven through the notorious Ashley Street closure. She lost her expiation notice and went to the council to pay her fine. She was asked her name, car number and address. She paid $50, asked for and took her receipt. Some weeks later she received a summons. She took her receipt back to the council, thinking that there must have been a mistake. The offence was again raised on the computer and she was informed that she had paid only the first leg of the offence and that when she had driven out of the section of Ashley Street she had committed a second offence. She was told that her only option was to plead guilty and pay the Port Adelaide Magistrates Court.

I became angry to think that a senior citizen in my

community was asked to pay a second fine, when the Port Adelaide Magistrates Court has been continually dismissing the second offence. I do not believe that Thebarton council is interested in traffic management and control: it is interested in raising revenue. Only recently, complaints were made by members in this House of numerous families being fined by the council for offences committed while they were attending Ashton's circus and attending Sunday family fun days in Bonython Park, where literally hundreds of offences were written out.

I have done some investigating and discovered that Thebarton council has had a series of reports over recent years on the operations of the council. Each report has identified problems at senior management level, particularly involving the City Manager/Town Clerk. The most recent report, in February 1994, from KPMG Peat Marwick seems to have been completely ignored by the elected members and the staff. That report related to an operation review and best practice consultancy.

There are some very interesting statistics regarding traffic and parking collections in the most recent report, which provides information about the problems in the Thebarton area. Thebarton council collects approximately $40 per capita in fines for parking and traffic offences, whereas Henley and Grange council collects $2; Unley council, $10; Walkerville council, $3.50; Prospect council, $1.50; and St Peters council, $1.90; and so it goes on. Thebarton council receives over $250 000 per annum for traffic and parking violations. However, approximately $200 000 of this goes in costs. Where does that money go? I am led to believe that a sizeable proportion goes to a company called Argus Securities, which administers the parking and traffic collections. It is alleged that officers of Argus Securities also are authorised officers of Thebarton council; in other words, they can write tickets.

The notorious Mr Alan Brooks is the council inspector who also writes tickets. I understand that Mr Brooks was once an employee of Argus Securities or an associated company, and that he was one of the founding principals of Argus Securities. So, if there are more tickets processed, the processors get more money—more turnover, more profit. No wonder Thebarton council collects up to 2 000 per cent more per capita than most other councils in the metropolitan area.

This situation raises some serious questions about secret commissions. It also raises some interesting questions about the statutory requirements for disclosure of employee interests and the Town Clerk's role in drawing this matter to the attention of the elected members. Also, I am informed that, in certain circumstances where people have received summonses and the matter has been settled out of court, costs have been charged even though the summonses have not been lodged with the court. All this is hardly the basis of good government and, of course, the more litigation, the more costs; and the more that goes in costs, the more money there is for Argus Securities. It is noteworthy that the hierarchical structure of Thebarton council was altered to ensure that the traffic inspector reports directly to the Town Clerk and bypasses the middle management of council.

During my investigations, I consulted Adelaide's resident expert on parking and traffic matters, Mr Gordon Howie, who informed me that, in his opinion, Thebarton council has the worst administered traffic and parking controls in metropolitan Adelaide. The infamous road blocks in Ashley Street, Thebarton, have raised nearly $500 000 since the original installation a few years ago, and all this money was obtained by prosecuting people for a breach of Thebarton council's by-law 2, which is probably invalid for a number of reasons. However, it is made even worse by the fact that Thebarton council has known this for some time. A person had $350 worth of expiation notices posted to her in one day in February this year. A prominent lawyer in the city investigated the matter and, when his legal opinion was presented to the council's solicitors, they recommended that all notices be withdrawn and they were.

Since then, the council has merrily continued to take the public's money under false pretences. I have been advised that the council may have to refund all the moneys collected under this by-law, and I have a legal opinion from Fisher Jeffries about by-law 2 and its ability to stand up in court. In a letter, dated 30 September 1994, to a ratepayer the Town Clerk stated:

> May I take the opportunity to assure you that council ensures at all times the actions it takes are in conformity with all statutory and legal obligations. As we aim to be a customer and customer service organisation, it is essential that the basis of council's actions are sound.

A few days later, the council's insurers settled a court action out of court which gained notoriety on the front page of the *Advertiser* and which involved a constituent of the town who had taken action against the council for malicious prosecution. I believe the settlement was for $7 500, and it is my understanding that insurers have demanded that the council undertake a complete review of all its parking and traffic procedures, or it will refuse to continue to provide indemnity to the council. Also, it is my understanding that at least two more cases for malicious prosecution may well be brought against the council. I believe that this is the first ever successful case of its kind against a council in this State; it is an utter disgrace, and the people responsible should not be in local government.

There has been a continuous string of serious complaints to the Ombudsman and I believe also to the Minister. Local government is and should be the level of government closest to the people. It saddens me to see such a role so badly abused and corrupted as it is in the case of Thebarton, the town where I grew up. It is very difficult for the average person to fight against the type of things that have been happening here. The State Government's role in all this is to ensure that the Acts of Parliament that the local government is entrusted to administer are administered without fear or favour, and that natural justice is served. This is not happening in the case of the Thebarton council. People should not have to go to the Supreme Court to get some service from a council. I am sure that the Minister for Local Government Relations will thoroughly investigate these matters and take the appropriate action. I have told my constituent to appear in court and to fight this charge, because I believe that by-law 2 will not stand up. I am going to ask some of our members in the Legislative Council to represent her in the courts and—

An honourable member interjecting:

Mr CONDOUS: And Barton Road is another one, yes; and that involves even more vilification. I believe that this woman should not be prosecuted and that thousands of people have been prosecuted illegitimately. I also believe that it will not be very long before it is found out and that Thebarton council may have to refund many hundreds of thousands of dollars.

Motion carried.

At 10.7 p.m. the House adjourned until Wednesday 2 November at 2 p.m.