HOUSE OF ASSEMBLY

Wednesday 14 November 2001

The SPEAKER (Hon. J.K.G. Oswald) took the chair at 2 p.m. and read prayers.

PARKS HIGH SCHOOL

A petition signed by 227 residents of South Australia, requesting that the House urge the government to reopen the Parks High School, was presented by Mr De Laine.

Petition received.

BUS SERVICES, SOUTHERN MALLEE

A petition signed by 15 residents of South Australia, requesting that the House repeal legislation preventing residents in the Southern Mallee from using interstate bus services to reach destinations within the state, was presented by Mr Lewis.

Petition received.

PAPERS TABLED

The following papers were laid on the table:

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

- Australian Dance Theatre—Report, 2000-01
- Community Information Strategies Australia—Report, 2000-01

By the Minister for Water Resources (Hon. M.K. Brindal)—

- Clare Valley Water Resources Planning Committee—Report, 2000-01
- Eyre Region Water Resources Planning Committee—Report, 2000-01
- Mallee Water Resources Planning Committee—Report, 2000-01
- Northern Adelaide and Barossa Catchment Water Management Board—Report, 2000-01
- River Murray Catchment Water Management Board–Report, 2000-01
- South East Catchment Water Management Board—Report, 2000-01
- State Water Plan 2000—Report, 2000-01
- Water Well Drilling Committee—Report, 2000-01.

LE MANS RACE

The Hon. R.G. KERIN (Premier): I seek leave to make a ministerial statement.

Leave granted.

The Hon. R.G. KERIN: In this House yesterday, we saw an extraordinary performance by the member for Hart during question time and during grievances. The basis of the member's allegations against me was a statement of claim lodged in the Supreme Court by Panoz Motorsport Australia Pty Ltd. As this is a matter that is now before the court and should be dealt with there, there are a number of issues that need to be addressed in this chamber.

First, I want to deal with a number of factual errors in the member's comments. The member said that I had been named in an $18 million lawsuit. The fact is that I was not named as a defendant or party in the statement of claim. I was merely mentioned as being present at one meeting. Neither—

Members interjecting:

The SPEAKER: Order! I suggest that the House come back to order. I have given the Premier leave to make a statement, and I would like to hear that statement.

The Hon. R.G. KERIN: Neither does the statement of claim mention a figure of $18 million. It does not specify the total amount of damages claimed. That is a matter for the court.

Members interjecting:

The SPEAKER: Order, the member for Elder!

The Hon. R.G. KERIN: In his grievance, the member for Hart referred to my being involved in 'meetings'—wrong again: the statement of claim, as I said, mentions but one meeting. The member also claimed that former Premier John Olsen has been named in the case—

Members interjecting:

The SPEAKER: Order! I warn the member for Spence.

The Hon. R.G. KERIN: He is obviously not too keen on hearing this. The member also claimed that former Premier John Olsen has been named in the case for dishonest behaviour. The member should know that the word 'dishonest' does not actually appear in the statement of claim.

Members interjecting:

The SPEAKER: I warn the Minister for Police.

Members interjecting:

The SPEAKER: Order! I ask the Premier to resume his seat. I will just say to the House generally that the behaviour yesterday was appalling and the chair is not going to put up with it.

The Hon. R.G. KERIN: The member for Hart also talks about untruths—again, it is a word not used at all in the statement of claim. He also claimed that at a meeting I attended a draft race deed was handed over that locked our state into future races. The draft deed did no such thing and, in fact, the statement of claim does not even make that allegation. These are errors of fact that were relayed in this House by the member for Hart yesterday.

But what is more disconcerting is what he was trying to do. The member for Hart was attempting to smear my name and that of other members. He was attempting to take a series of allegations laid before the court—allegations that will be defended and disputed by the government—and pretend that they are the facts of the matter. This is clearly not the case. My government will defend this claim because we must act in the best interests of taxpayers.

Furthermore, it seems that the member for Hart either does not understand how government negotiations are conducted or he deliberately misrepresents them. Negotiations for this event were conducted by senior public servants with advice from officers from the Crown Solicitor's office. Ministers, premiers and acting premiers do not conduct negotiations at this level.

The member for Hart presents himself as an alternative leader for an alternative government, yet all he ever does in this place is play games, smear, misrepresent and undermine events and projects that are good for South Australia. He will undermine any project or vandalise any initiative if he believes he can do some personal damage on this side. It is time that the member for Hart recognised that this is not what the people of South Australia expect from this place. It is not what the Labor Party expects of him. Even the media is starting to weary from his tactics. I think this House deserves better. I think the people of South Australia deserve better.

LEGISLATIVE REVIEW COMMITTEE

Mr CONDOUS (Colton): I bring up the 33rd report of the committee and move:

That the report be received and read.

Motion carried.

Mr CONDOUS: I bring up the 34th report of the committee and move:

That the report be received.

Motion carried.

PUBLIC WORKS COMMITTEE

Mr LEWIS (Hammond): I bring up the 162nd report of the committee, on the Southern Food factory proposed French fry processing facility—final report, and move:

That the report be received.

Motion carried.

The Hon. DEAN BROWN (Deputy Premier): I move:

That the report be published.

Motion carried.

QUESTION TIME

EDUCATION, GIFTED CHILDREN

Mr FOLEY (Hart): My question is directed to the Premier—the very sensitive Premier.

Members interjecting:

The SPEAKER: Order!

Mr FOLEY: Now that it has been revealed that the government spent nearly $400 000 on a party and for events to open the National Wine Centre (with the help of a donation of $250 000 appropriated by cabinet), will the Premier explain to the House why the education department has informed three of our state's high schools that it can no longer afford to run the gifted children's program which cost $250 000?

Members interjecting:

The SPEAKER: Order!

The Hon. R.G. KERIN (Premier): What an inane question. Yesterday the member for Hart, in a series of questions, looked to link those two things. It is just absolutely playing on emotion. Does he or does he not support the National Wine Centre? If we did not build it at all—

Members interjecting:

The Hon. R.G. KERIN: There are a lot of things; as soon as you start learning some of those things—

An honourable member: Do you support kids?

The Hon. R.G. KERIN: Of course we support kids. We have a great Minister for Education, who is doing a fantastic job there. Is the member saying that we should spend absolutely no money at all outside education and health? How does one draw a connection between the educational program that the member spoke about versus the National Wine Centre? The government has its priorities, and the largest parts of the budget go towards health and education—and at levels that we did not see while the Labor Party was messing around about with goat farms, the State Bank—

Mr Foley interjecting:

The SPEAKER: Order! I warn the member for Hart.

Members interjecting:

The SPEAKER: Order!

The Hon. M.D. Rann interjecting:

The SPEAKER: Order! I warn the Leader of the Opposition.

The Hon. R.G. KERIN: So—

An honourable member interjecting:

The SPEAKER: Order! I warn the member for Spence for the second time.

The Hon. R.G. KERIN: There are a couple of other issues with respect to this. First, the funding has not been withdrawn. The member comes in here and once again throws across the floor an accusation about funding being withdrawn, when the funding for that program is currently under review. So, he has done it again, and the House has been misled, to some extent, yet again.

The second issue is that, often in this House, I have quoted the figures for the wine industry in this state. The wine industry in this state, back when the Labor Party was in government, was contributing about $100 million a year to exports. The wine industry now contributes over $1 billion a year to exports. The wine industry in this state—

Members interjecting:

The Hon. R.G. KERIN: A bit of a socialist view. The wine industry in this state is an enormous contributor. It is reinvesting the money that it is making, in reply to the member for Elder, at a great rate. The member has attacked every other industry in the state: today he had a go at the wine industry. It is a matter of what it will be tomorrow.

ALICE SPRINGS TO DARWIN RAILWAY

The Hon. G.M. GUNN (Stuart): Mr Speaker—

Members interjecting:

The SPEAKER: Order! I warn the member for Elder for the second time, and the member for Bragg.

The Hon. G.M. GUNN: —notwithstanding the comments of the member for Hart, can the Premier update for the House the latest developments and economic benefits to regional South Australia arising from the construction of the Adelaide to Darwin rail link and, in particular, the benefits to Port Augusta? The House would be aware that the Premier, the member for Giles and I were privileged this morning to witness a ceremony that indicated the great benefits to South Australia of this program—

The SPEAKER: Order! There is a bit of commenting now, member for Stuart.

The Hon. R.G. KERIN (Premier): I thank the member for the question—he did start to cut into the answer as well! I thank him for his support of this whole project. We talk about these projects quite often but, when one sees the impacts that are occurring because of projects such as this, one realises that they really start to mean something. This morning we travelled to Whyalla, where a small ceremony took place, and we then travelled on the train between Whyalla and Port Augusta with the first load of steel rail—the first consignment being 2000 tonnes. That will then go on to a place near Alice Springs, and then it will go by road train to Katherine and Tennant Creek.

That is a visual sign of what the Adelaide to Darwin railway actually means. What we see in this case is 40 extra jobs at One Steel and all the flow-on into other businesses in Whyalla. The trolleys or the carriages which carted the rail up there have been refurbished and rebuilt by EDI at Port Augusta. When we got to Port Augusta we had a look at the

first of 68 ballast wagons that have been made by EDI. EDI has 60 extra jobs on site in Port Augusta as a result of this work. Talking to the workers there, I was informed that parts of each of the wagons had been made in Port Pirie, Whyalla and other businesses in Port Augusta. The flow-on from that work is making an enormous difference. EDI has put out about $3.6 million worth of orders just in the local community.

There is another major contract for rail wagons, and we hope that EDI, which has been able to secure these other contracts, will have the size and strength to be competitive in that bid. We hope to see that tender also go to Port Augusta, having been assured that they can handle it. We are starting to see the real impact of the Alice Springs to Darwin rail line taking effect. It is making an enormous difference to confidence in those communities, and it is excellent to see so many small companies in those areas picking up either direct or spin-off contracts. They have worked hard up there. Our Partners in Rail group down here has spent a lot of time with the common purpose group operating in the Spencer Gulf cities. The regional development boards and local industry have worked very hard to form clusters so that they have the critical mass to apply for bigger contracts.

It is worth mentioning also the leadership of the three mayors in the Upper Spencer Gulf region. Ken Madigan at Port Pirie, Joy Baluch at Port Augusta and John Smith at Whyalla have created a difference in those three cities which, through the common purpose group, are working very closely together to maximise the opportunities that will come from this railway. We will see a lot of activity in the ongoing part of the railway over the next couple of years, and in the long term what it means for us, as far as exports into the food bowl of South-East Asia are concerned, is that it will be very important. It will see jobs spread throughout regional South Australia, which will impact on the South Australian economy. I congratulate all those involved—very well done.

NATIONAL WINE CENTRE

Mr FOLEY (Hart): My question is directed to the very sensitive Premier.

Members interjecting:

The SPEAKER: Order!

Mr FOLEY: Thank you, sir. Is the Premier concerned that the new Chairman of the National Wine Centre, Mr Graham Walters, is warning that the wine centre will require additional funding to operate effectively; and has the Premier been briefed on the likely amount needed to continue the wine centre's operations? In a letter received today by the Economic and Finance Committee of the state parliament, Mr Graham Walters said that, after just one month of operation, the board and the management of the National Wine Centre are now having to revise the centre's operating and marketing strategies. Mr Walters said that the late opening of the centre and the complexities of the building's construction had compromised the centre's ability to operate profitably. Mr Walters wrote:

> It is therefore anticipated that additional funding will be required.

The Hon. R.G. KERIN (Premier): I am well aware of the issues raised by the member for Hart. I met last Friday with the former Chair, Rick Allert, with the new Chair, Graham Walters, and with the new CEO, and we discussed a range of issues to do with the National Wine Centre. I am aware of the issues that need to be addressed by the wine centre. The member for Hart correctly named a couple of those issues. There are also some of the international effects that we have seen through the 11 September events and the flow-on effect on international tourism, which has drawn right back. It involves not just what has happened so far in that respect but what happens with projections relating to the number of our international visitors. The effect of Ansett having to be on the ground needs to be taken into account.

One other issue that has hurt the finances of the wine centre is that Ansett was a significant sponsor with over $100 000, and that together with many other sponsorships were lost when Ansett was grounded. I share with the chair some concern about the delay in opening, which meant that there was no income for the first three months. The chairman put out a statement today. We need to have a good look at the business plan—

Mr Conlon interjecting:

The SPEAKER: Order, the member for Elder!

The Hon. R.G. KERIN: Yes.

The Hon. M.H. Armitage interjecting:

The SPEAKER: And the Minister for Government Enterprises!

The Hon. R.G. KERIN: We need to revisit the business plan because in terms of what has happened internationally it does need some reworking. We need to have a good look at the finances of the centre and, from that, hopefully we will work out the figure which the member for Hart is looking for.

An honourable member interjecting:

The Hon. R.G. KERIN: Well, we need to work out accurately the operating budget of the wine centre. A range of issues is involved, but I can assure the House of one thing, and that is that Graham Walters, who put out a statement on this issue today, will attack it head-on. He understands the financial operations extremely well, and I have great confidence that he will sort it out and make this absolutely excellent centre a strong asset to the state. We must ensure that we get the operation of the centre absolutely right, and that is what we intend to do.

MURRAY RIVER

Mr VENNING (Schubert): Will the Minister for Water Resources say whether there are any positives for the Murray River following the recent awarding of Natural Heritage Trust funds?

The Hon. M.K. BRINDAL (Minister for Water Resources): I am pleased to inform the House that several positives will flow to the Murray River as a result of the recent awarding of NHT funds. Because of the water quality, salinity, revegetation and conservation problems besetting South Australia, including the Murray River, we will this year get more than $70 million worth of funds for South Australia, combined with this government's commitment of $100 million to the Prime Minister's National Action Plan on Salinity and Water Quality. It is easy to see which party is fair dinkum about actually saving the Murray River rather than just talking about it. It is not difficult to see why—to use the Leader of the Opposition's terms—federal Labor policies—

Mr Hill: Stop playing politics with the Murray River!

The Hon. M.K. BRINDAL: The member for Kaurna says, 'Stop playing politics with the Murray River!' I suggest that the member for Kaurna should have told the Leader of the Opposition that when he made his paltry attempt at raising the Murray River in his salinity strategy in the lead-up to the last election. I would like the shadow minister in this

House—and this is the point of this question—to publicly distance himself—

Mr CONLON: On a point of order, Mr Speaker, not only is the minister responding inappropriately to interjections but also he is clearly debating the issue. I ask that he be brought back to the substance of the question.

The SPEAKER: Order! I concur with the point of order, but I also make the point that if members on my left interject and raise extra material in so doing there is a consequence of that happening. It is no good complaining after the event.

The Hon. M.K. BRINDAL: The point I was making is that, in this state, Labor (the current opposition) linked itself quite clearly to a salinity program laid down by the federal Leader of the Opposition. It was a farce, a sham, and the most disgraceful document perpetrated on this nation—in particular, on a state that knows better. The Murray was barely mentioned. It was a will-o'-the-wisp, inconsequential parfait of nondescript flavours—and that is all you could say about it. Yet, opposite, we see carping and criticism about what this government has been doing. The Leader of the Opposition today had a blatant media feed about a private caucus meeting. In the 12 years I have been here the caucus has never leaked, the caucus does not leak, the caucus simply places stories for the media.

Mr ATKINSON: On a point of order, sir, I do not see the relevance of this response.

The SPEAKER: Order! I uphold the point of order, and bring the minister back to the question.

The Hon. M.K. BRINDAL: I thank you for that direction, Sir; we often have difficulty seeing the relevance of the member for Spence. The relevance is this: that on the one hand the Leader of the Opposition said, and he said last Friday, 'I think he [Beazley] would have made a great prime minister with a real sense of the nation's history and with a real vision for the future.'

The SPEAKER: Order! I would ask the minister to keep to the question please.

The Hon. M.K. BRINDAL: I will, Sir, because in South Australia the leader's vision for the river was a non specific vision. It was inconsequential, and that purports to be the policy opposite. Last year, when Mr Beazley was here, he attacked the NHT, and he attacked NHT funding. The opposition has linked itself clearly to the policy of the federal opposition. When he released his policies he in fact supported the NHT. What I would like to know, on behalf of—

The Hon. M.D. Rann: Playing the man, not the game.

The Hon. M.K. BRINDAL: Well, Mr Hypocrisy. What I would like to know, what South Australia deserves to know, is where the opposition stands on the River Murray. We have been promised a bipartisan approach, yet members opposite link themselves to a federal policy, which was less than any South Australian would accept. The people of South Australia have a right to know where Labor in South Australia stands on the River Murray. This is the same opposition who when in government did nothing for the River Murray at all. They spent $5 000 on the minister for environment's desk so she could ponder the problem. That is what they did. They opened a hospital, staffed it, and put no patients in it, and wasted millions of dollars. That is what they did, but they did not address the River Murray.

Last week a party in this state was described as a smoking ruin, a party without credibility, and today we see the return fire from those opposite, because member of the Labor Party, generally singing from the same hymn sheet, have today returned fire and attacked the very suite of federal policies that last Friday they were sticking up for. I am saying that this state deserves some policy answers from the opposition. This state deserves better than an opposition that is meandering up the River Murray on their three houseboats: the policy-free, the arrogant and the unintelligible. They actually deserve answers. I suggest that they come up with the answers soon, because I am told that there is a Newspoll about to be published and there is one thing interesting in that Newspoll—

Mr ATKINSON: On a point of order, Sir. I am wondering if you could direct the Minister for Water Resource to answer the substance of the question and cease debating the matter.

The SPEAKER: Order! The member can resume his seat. The minister needs to come back to the substance of the question. I uphold that point of order.

The Hon. M.K. BRINDAL: I will, Sir. The substance of the question is that we have committed funds. We have put in place programs. We have a salinity strategy. We have a State Water Plan. We have a response to the report of this House's Select Committee on the Murray River. We have yet to see any policy from the opposition. South Australia is to go to the polls within six months. South Australia deserves from this government a policy. It has a policy. South Australia equally deserves from the opposition a policy, and it needs a policy, because when the newspoll comes out, it will show that the popularity of the Leader of the Opposition is actually less than the figure he obtained for unemployment, and that figure was 10.1—

Members interjecting:

The SPEAKER: Order!

The Hon. M.K. BRINDAL: —so I think he had better lift his game.

NATIONAL WINE CENTRE

Mr CONLON (Elder): What an eccentric performance! My question is directed to the Premier. Can the Premier tell the House how many people have visited the National Wine Centre at a cost of $11 per head since it—

Mr Venning: Knock, knock, knock, knock!

The SPEAKER: Order!

Mr CONLON: Thank you, sir. There is something rattling around in his head. Can the Premier tell the House how many people have visited the National Wine Centre at a cost of $11 per head since it opened in the first week of October, excluding the 12 000 people who visited the centre for free on the opening weekend? Is the Premier happy with the attendance figures to date?

It costs a family of four $29 to visit the National Wine Centre and a further $7 to visit the Rose Garden. If the two adults in the family also wish to partake in the wine tasting, it would cost another $5 each for the bronze package, ranging up to $19.50 each for the trophy package. That means that a family visiting the National Wine Centre and Rose Garden would pay between $36 and $75. The opposition has been informed that the Premier has very recently received a full briefing on the National Wine Centre's operations and should be able to give us the answer.

The Hon. R.G. KERIN (Premier): As to how many people have gone through, I would have to take that on notice, but I do know—

Mr Atkinson interjecting:

The Hon. R.G. KERIN: No, I do know—

Members interjecting:

The Hon. R.G. KERIN: I haven't been down there this morning counting numbers.

Members interjecting:

The SPEAKER: Order!

The Hon. R.G. KERIN: The issue is and has been that the numbers have not been as budgeted, but that goes back to the business plan. As I said before, they were expecting a good percentage of international and interstate visitors but, with the grounding of Ansett and events that have occurred on the international scene affecting tourism, that will have an impact. We have to be realistic about that. As I said before, we will have to revisit the business plan as to what we do. I know that the revenue is not what was budgeted for. That is the issue that has to be addressed.

We may have to look at our budgeting, our business plan and our marketing, because if we have to focus on a different market, because of what has happened internationally and with Ansett, then that is what we have to do. Graham Walters, as the new chair of the board, and the new CEO are well and truly qualified to do that job.

MEDICAL SERVICES, COUNTRY

Mrs PENFOLD (Flinders): Can the Deputy Premier advise the House on the latest initiatives to improve access to specialist medical services for country people?

The Hon. DEAN BROWN (Minister for Human Services): I appreciate this question from the member for Flinders because she represents most of Eyre Peninsula. It is a vast area, and one where this government has worked very hard indeed to make sure we maintain a high level of health care for those people in more remote areas and certainly removed from the bigger centres. I am delighted to announce to the House, and particularly to country members, that this government has reviewed the PAT (patient assisted transport) scheme which assists country people who need to travel to a major centre such as Adelaide, or to Port Augusta, Whyalla or Port Lincoln, to obtain specialist medical care.

We have increased the benefits under that scheme and therefore made it easier for those people to access that special medical care. I am delighted to say that the rate has been increased from 10¢ to 16¢ a kilometre, a 60 per cent increase and something that has been asked for very widely by country members. It is part of the initiative that we put down for this year's budget, to carry out a review and then announce the benefits from that review.

The other benefit is that a number of people, particularly on very low incomes, who need to travel to Adelaide or to a major centre and stay for several days have complained that under the old PAT scheme they did not receive any benefit for the first night they were there. Under the revised benefits, for the first night for those who are pensioners or part pensioners, they will receive compensation for that first night. They all, including non-pensioners, receive a benefit for ongoing nights, the second and subsequent nights, but they had not previously received the benefit for the first night.

I am delighted to say that this additional benefit will mean approximately a 50 per cent increase in funding for the PAT scheme for a full year; it is less than that, obviously, for this year. The new scheme will apply from 1 December 2001, so I am sure that the member for Flinders will want to make sure that this news gets through to the people on the Eyre Peninsula, because they are some of the great users of the PAT scheme.

The other initiative that we have undertaken and on which I signed off last week is aged care in the South-East. The member for MacKillop will be delighted to know that I have signed a contract for the Bordertown hospital for nursing home beds—for $2.2 million dollars. I have also signed a contract for the Penola hospital for over $300 000. The Bordertown hospital will now be able to have nine long stay nursing home beds with ensuite facilities, dining rooms, sitting rooms and other facilities like that in the upgraded parts of the hospital. At the Penola hospital there will be three beds as part of a broader scheme whereby 23 nursing home beds have been put into the South-East as part of that region's initiative to help older people stay within their community, stay with their friends and grow old within their own community.

This government has made a huge commitment to health, and especially to health in country areas, and will continue to do so. I happened to note that during the federal election campaign Jenny Macklin, the Labor shadow minister for health who I think is now running for deputy leader, when asked whether or not state governments (including this government) had cut back on funding for health, said, 'Definitely not.' This absolutely knocks the argument often raised by the member for Elizabeth and others opposite, who keep claiming that we are cutting funding for health. Jenny Macklin has said that that is not the case at all. She then went on and criticised the federal government, but that is fair enough, as she was in the middle of a federal election campaign. But she has put on the record that state governments, including the South Australian government, have not cut back on funding and, in fact, we have increased the funding.

SAMAG

The Hon. M.D. RANN (Leader of the Opposition): My question is to the Premier. Given media reports—

Members interjecting:

The SPEAKER: Order!

The Hon. M.D. RANN: Just listen to them: it is like a police line-up, like a witness protection scheme. Given media reports that there is a possibility (and I emphasise that) that the $700 million SAMAG magnesium project may move to New Zealand rather than locate in Port Pirie, will the Premier say what assistance package has now been agreed on by the state government to ensure that the project, together with its jobs and additional gas supplies from the Otway Basin, comes to South Australia? The benefits of the SAMAG project to South Australia include 500 jobs during the construction phase, 500 ongoing jobs, a $275 million a year addition to state product and improved gas supplies and potentially lower costs of power.

Yesterday's media reports in the national press say that SAMAG's proponents, Pima Mining, are close to confirming Taranaki in New Zealand as its preferred site. I do not believe that to be the case; I think it is an exaggeration. However, it said that this would not only mean the loss of the project but also that it would 'seriously disrupt plans to build a new gas pipeline from the Otway Basin to Adelaide'.

The Premier would be aware that the commitment by the federal government and the state government for an assistance package for SAMAG was deferred because of the federal election. Has the state government now firmed up its assistance package?

The Hon. R.G. KERIN (Premier): In relation to the last part about whether the state government has firmed up its package, our package has been firm for the last couple of

months and has been sitting with the federal government awaiting an announcement from it. There have been significant talks between SAMAG, state government officers and Invest Australia over the last couple of months. Senator Minchin has been involved in some of the negotiations. We are still extremely hopeful that the Port Pirie site will be the successful site. I will not reveal the size of the package. The leader has put out a couple of press releases on this matter, and I can assure him that our package is more generous than the one he flagged in his press releases. I give him that information so that he has a feeler for it.

An honourable member interjecting:

The Hon. R.G. KERIN: That's right. In relation to yesterday's article about New Zealand, the New Zealand option has been on the counter for a while. When people do the business planning and bankability for this—and SAMAG is not necessarily doing that—they look at all the options for siting this type of project. One of the issues involved in granting federal assistance is whether or not a project will be built in Australia or offshore. It is important to note, in relation to SAMAG, that on some modelling that was done the New Zealand option shaped up pretty well. The question was then asked by Invest Australia as to the veracity of the electricity prices used in the modelling for the New Zealand business case. SAMAG did some work in New Zealand to prove up the accuracy of those figures for electricity prices.

That has been picked up in the media, with discussions having occurred and an electricity price obtained, firming up the New Zealand position. New Zealand is an option and has been for quite a while. I do not see that there has been any change fundamentally in the preference for Port Pirie at present. The talks that have been taking place with AGL and others in New Zealand have been very much about trying to firm up the case for federal government assistance.

UNION MEMBERSHIP

Mr SCALZI (Hartley): Will the Minister for Education and Children's Services inform the House whether the teacher's union has demanded that teachers and school staff pay a bargaining fee as part of its list of claims made to the department?

The Hon. M.R. BUCKBY (Minister for Education and Children's Services): The answer is yes, the teachers' union certainly has. Unbelievably, the increasingly irrelevant AEU has seen fit to demand of teachers and school staff that they pay into its ample coffers up to $500 per year. It demands more than $37 million from teachers and school staff to negotiate their next enterprise agreement. Can you believe that? This is an extreme grab. Can this extreme grab be measured on the greedy scale? I think not. In fact, to be quite honest, I do not even think that Roy and H.G. would have a scale to match this one. I refer to the rank tactic—

Members interjecting:

The SPEAKER: Order!

The Hon. M.R. BUCKBY: —by the AEU in attempting to force our 25 000 schoolteachers, SSOs, preschool teachers and TAFE employees to cough up even more money for the union. Such an extreme assault demonstrates the union's blatant disregard for educators—the very people it purports to represent. The union wants to compel government employees who do not belong and choose not to belong to the AEU to pay this exorbitant grab, and well over half the teachers and people in our teaching profession do not belong to the union. It is simply obscene; there is no doubt about it. Teachers currently pay around $400 on average in union fees. This is simply to prop up funds in the coffers of a declining and irrelevant union. What a farce! The AEU failed its members in the last enterprise agreement, because it took two years before it would accept the government's offer—which was a very fair one—and, in fact, the average teacher lost $600 because of the union's procrastinating and not accepting what was an excellent offer by the government.

The inept president of the union and his lackeys tried to disguise the continual membership decline amongst teachers. Only last week, the union president claimed on the ABC that 90 per cent of teachers were members of the union. If that is the case, it is a pity that only 18 per cent bothered to vote for him in the recent elections. Clearly, only the union membership knows how irrelevant the union really is, because these are bullyboy tactics, and it clearly will not wash—

Mr Clarke interjecting:

The SPEAKER: Order, the member for Ross Smith!

The Hon. M.R. BUCKBY: Sadly, it is the only ploy that the leadership knows. Only last month, the member for Spence could not help himself. He came clean on radio that his AEU mates were not interested in education. He said that they only have 'the employment interests of their members at heart'. Teachers continue to confirm that the AEU does not have the best interests of public education, or their profession, at heart. Teachers are already contacting us asking why they should have an additional $500 taken out of their pocket when the AEU openly boasts that it has $4 million in its coffers in terms of a political campaign against the government.

Denis Fitzgerald, the man holding the key to the national AEU washroom, tried to lead a sustained multimillion dollar campaign against the federal coalition's education policy. Today's *Australian* summed it up extremely well, as follows:

> . . . the ALP's loss is also the education union's loss; so much had been invested in a Howard defeat.

Teachers do not need the protection of the union: they need protection from the union. If there is ever such a question about education, and the AEU thought noodle nation was the answer, I ask the House: what happened last Saturday? What pathetic bedfellows—a morally bankrupt and irrelevant AEU still in bed with the policy poor party.

FESTIVAL OF ARTS

The Hon. M.D. RANN (Leader of the Opposition): Does the Premier have full confidence in Mr Stephen Page, who has been selected as the Artistic Director of the 2004 Festival of Arts, following his comments in relation to the departure of Mr Peter Sellars? Mr Stephen Page is reported in today's *Australian* to have criticised the festival board over the departure of Mr Sellars, and sent the message that 'if they thought Peter was a nightmare they'd better watch out.'

The Hon. R.G. KERIN (Premier): I shall have a look at the article and make an assessment from there.

RECREATION OPPORTUNITIES

Mrs HALL (Coles): Will the Minister for Recreation, Sport and Racing advise the House what the government is doing to develop recreation opportunities for the South Australian community?

The Hon. I.F. EVANS (Minister for Recreation, Sport and Racing): If one looks at the recreation and physical activity participation rates, one will see that there has been a

clear shift and a clear trend towards the less structured forms of recreation and sporting activity. Things such as walking, cycling and aerobics top the participation rates rather than the structured sports, as we would know them. It is for that reason that governments always need to respond to the market and look at ways of, I guess, satisfying and providing recreational needs for those groups. It is for those reasons that we have invested something like $6 million into the trails program—both walking and others—across the state.

It is the reason we introduced the greenways bill to try to provide more certainty of tenure for our walking and recreational trails; and it is the reason why, together with the Minister for Transport and Urban Planning, we have always been about developing a cycling plan for the state. We have looked also at other recreational opportunities. The recreational horse industry came to government and wanted to work with government to develop a horse plan for the state, and we have done that with the recreational horse industry. Recently, we opened beach volleyball in the city, Australia's first metropolitan beach volleyball competition area, which has been successful and which provides another social outlet for those people who are time pressured to be involved in physical activity. The beach volleyball opportunity in the city is working reasonably well.

The House would be aware that we have increased our grants program significantly in the recreation and sport area. Previously, we had programs worth around $6 million over three years: now it is $23 million over three years. I am pleased to see that it is not just structured sports that are submitting applications. In fact, the more popular grant applications being received and funded tend to be things such as skate parks (which are being funded all over the state) and playgrounds. The government is responding to recreational needs and it is important that we do that. If we can get people 10 per cent more active, there is a $600 million saving to the health budget throughout Australia; and it is for that reason we have introduced the Institute of Physical Activity to try to get people focused on being more physically involved in less structured recreation.

The latest initiative of the government in the recreation area is the state mountain bike plan and the state mountain bike park. We have contributed $200 000 towards the funding of programs under the mountain bike plan. Members may not be aware, but about 42 000 mountain bikes are sold each year—or roughly 1 000 a week—in South Australia. That is a significant number of mountain bikes and that need must be met. For that reason, we got together with the cycling industry, government agencies, environmental groups and other recreation groups to look at developing a state mountain bike plan. In the past month or so, we have had the pleasure of launching that plan at Eagle on the Hill.

The plan deals with trails, funding and training, and talks about the sustainability of mountain bike riding, which is a big issue through the Mount Lofty Ranges because of environmental concerns and damage issues that mountain bike riding, if not done properly, can bring to certain areas. It also talks about codes of conduct, safety measures and legal liabilities. To complement the mountain bike plan, we have purchased Eagle Quarry for $510 000 to be the state mountain bike park. That is a 92 hectare property, on which we think we can fit up to 30 kilometres of mountain bike trails. They can be purpose built for the activity. We think there is a good chance that, just as we have done with Tour Down Under, which has been an outstanding success, there is a good opportunity long term for national and international mountain bike events to be hosted in the park once it is developed.

From an environmental viewpoint, it will take a lot of mountain bike pressure from two of our key parks, that is, Belair National Park and Cleland National Park. There are significant mountain bike pressures there, where people come to the top of the hill and ride down over the hill. I know that in my own electorate riders catch the train to Belair, ride over the top of the hill, back down to Mitcham to reboard the train, and continue to do the circuit during the day, and this has caused concern for people in the area.

A lot is happening in the recreation area, which is an area often overlooked by government, because it is not quite as structured as some sports. However, we are pleased to be involved in these recreational activities, and certainly delighted to have the mountain bike plan and a new state mountain bike park.

EDUCATION, OVERSEAS STUDENTS

Ms WHITE (Taylor): Does the Premier believe that the government is getting good value for the $1.5 million it puts into the Education Adelaide budget each year, given that the Hong Kong office of Education Adelaide, for instance, has managed to attract only 46 overseas student enrolments this year into Adelaide and our state attracts only 5 per cent of the national intake of overseas students into South Australian universities?

The Hon. R.G. KERIN (Premier): The information that I have received about Education Adelaide is that we have seen a 19 per cent increase in the number of overseas students. We need these initiatives because we attract only 5 per cent and we want to attract a lot more than that. It is important that we look at the best initiatives to do that. We will constantly review how we go about attracting overseas students into Adelaide. They are a major boost for our tertiary institutions, secondary schools and the economy. Having more and more overseas students here is terrific.

Having attended a couple of dinners in Malaysia over the years, I have learnt that, once they have been educated here, when they go home they well and truly understand what we have to provide by way of goods and services, and we get excellent value on an ongoing basis. So, whilst the numbers might not be what we want, $1.5 million is probably excellent value, and that value will continue to accrue for a long time in the future.

CLARE VALLEY

The Hon. G.M. GUNN (Stuart): My question is directed to the Minister for Government Enterprises, who understands and supports the wine industry, unlike the member for Hart and the Labor Party.

Members interjecting:

The SPEAKER: Order!

The Hon. G.M. GUNN: This is an important question because it refers to the wine industry, which the Labor Party appears to be—

The SPEAKER: Order! The member for Stuart will ask his question or sit down!

The Hon. G.M. GUNN: Quite, sir. Will the minister outline to the House plans that he has to consult with the Clare Valley primary producers, including the region's winegrowers—an industry which, of course, is developing at a rapid rate, contrary to the allegations of the member for

Hart—to progress plans for the $26 million water scheme for the area, and will he indicate what benefits will flow to the state from this excellent investment?

The Hon. M.H. ARMITAGE (Minister for Government Enterprises): I thank the member for Stuart not only for asking the question but also for acknowledging that I am a supporter of the wine industry.

An honourable member interjecting:

The Hon. M.H. ARMITAGE: That's right. I actually think that the National Wine Centre is a building of which all South Australians should be proud—and, frankly, I think most of them are. Maybe those opposite are not, but most of them are. The Leader of the Opposition was certainly exhibiting every symptom of being proud of it on the night of the opening. I thank the member for Stuart for his question—

The Hon. J.W. Olsen interjecting:

The Hon. M.H. ARMITAGE: And on a Saturday morning. Well, 24 hours for the flip-flop is about right, I guess. Members will recall that the $26.5 million Clare Valley water supply scheme was announced at Clare in August this year. This scheme will provide filtered drinking water and irrigation water to the Clare Valley involving, obviously, irrigation for the vineyards and any other thing which may need it such as horticulture, and also the smaller towns. This additional water will benefit the economy through increased grape production, and it will obviously benefit the local community and citizens through access to filtered water. It is all being done within our existing Murray River caps, and that is an important element.

Later today I will release the pricing structure which will allow SA Water to start accepting contracts with the Clare Valley's major water users. This pricing provides for a one-off capital contribution, and water usage fees will apply at 94¢ per kilolitre through the peak irrigation period, which is obviously the same as that which applies to domestic users. Outside the peak irrigation period, a price of 50¢ per kilolitre will apply, and that will encourage greater uptake during a period when there is spare capacity in the SA Water network. The theory behind that, as has been demonstrated with other projects like this, is that the wine growers will store that water at the cheaper price for use at a later date.

SA Water officers are sending a team of people to discuss this pricing structure with the farmers and the wine grape producers. Before today, we had a series of discussions with them about the type of pricing structure, and those discussions have allowed us to go to a more formal process now. Those talks, which will be focusing on a specific price for the resource, will start this week.

As the member for Stuart said, this added water in an area which has been suffering will give the Clare Valley an enormous boost and, frankly, it is another indication of the government getting on with the job of fostering the economy. Also, it is a clear example of a government which is focusing the delivery of services on all South Australians, not only those in metropolitan areas—which our political opponents do not do. They do not give rural and regional South Australia consideration, and it is not only myself who says that. It is, in fact, the luminary in the Labor Party, Senator Chris Schacht. He well and truly let the cat out of the bag. He in fact tells us that the Labor Party thinks so much of representing rural and regional South Australia that they could not even find a candidate for the electorate of Grey until about a month before the federal election. That was in a marginal rural electorate. They could not even find a candidate.

While we as a government are spending money rolling out infrastructure to increase the economy in rural and regional areas, according to Senator Schacht the people of Grey are saying, and I quote: 'The Labor Party will not give us any support from Adelaide, no money is made available, the party organisation is not supportive.' That is the sort of debilitating atmosphere that is in the party at the moment, and those are not my words but the words of Senator Schacht. Senator Schacht is at last being truthful about the Labor Party, just like Terry Groom and others were, and indeed other Independent Labor candidates for the next election who are in the House.

So the economic benefits which the member for Stuart asked about will be worth in the order of $18 million by year five, and by year 20 it is estimated that the economic benefits will be worth, frankly, a staggering $73 million, and that does not include the positive effects on the local community of having access to filtered water for the first time and the economic benefit that will flow from the wine industry, and others, that will benefit from this money.

We all talk about jobs in this House. The additional number of full-time equivalent jobs will be over 350 by year five and 1 400 by year 20. So it is a very stark contrast. On the other side we have a luminary from the Labor Party telling us they cannot even get someone to stand for election in a marginal seat because they do not care about rural and regional South Australia, and on this side of the House you have the government providing $73 million in economic benefit and 1 400 jobs over the next 20 years. It is a staggering and stark contrast.

SHERIDAN AUSTRALIA

The Hon. M.D. RANN (Leader of the Opposition): Yes, the honourable minister who would not run for his own marginal seat but decided to cut and run. My question is again to the Premier. How much taxpayer funded assistance was granted to the Sheridan company last year and what provisions, if any, exist for clawing back part or all of this money?

Members interjecting:

The SPEAKER: Order!

The Hon. M.D. RANN: On 15 November last year it was announced that a deal had been signed that secured 650 jobs at Sheridan. The then Premier, John Olsen, stated, and I quote: 'Increasingly major companies are choosing Adelaide rather than leaving it.' However, he refused to say how much state government money had been given to the Sheridan company. On the following day after the announcement the company announced 40 jobs would go. Recent media reports have confirmed the loss of a further 53 jobs from the company, with additional losses expected next year.

The Hon. R.G. KERIN (Premier): I am aware of what is going on with Sheridan at the moment and the reasons why they are actually doing it. As far as the detail of assistance given is concerned I will have a look at that. I do not know about the confidentiality of it. But the other thing is that, with nearly all of these when assistance is given to companies, there are clawbacks if in fact jobs are not delivered on. Nearly all the assistance packages that I have seen as a member of cabinet have had clawbacks in there, and that will certainly be enforced if in fact the assistance is there.

AMBULANCE STATIONS

Mr MEIER (Goyder): My question is to the Minister for Police, Correctional Services and Emergency Services. Given the opposition by the Labor Party to a new 24-hour ambulance station at McLaren Vale, can the minister provide details on all new ambulance stations being funded in this year's budget, including a new station at Port Wakefield, and can the minister outline the benefits that these new ambulance stations will bring to South Australia?

The Hon. R.L. BROKENSHIRE (Minister for Police, Correctional Services and Emergency Services): Yes, I can confirm that a new ambulance station is to be built this financial year at Port Wakefield, partly because of the growth of the region there and partly because of the growth in the volume of traffic that flows through that region heading to tourism destinations on Eyre Peninsula and further into the north and outback South Australia. In fact, I am delighted to be able to tell the honourable member and the House that we have approved $3 million of budget for capital works for the ambulance service, and are actually in the process of building nine ambulance stations right across South Australia.

Mr Hill interjecting:

The Hon. R.L. BROKENSHIRE: The member for Kaurna is asking some questions on this matter, and I am very happy to give him some answers. I was surprised in the House the other day to hear the honourable member, who is one of the few honourable members on that side, asking the sort of question that I would have expected the Leader of the Opposition, the member for Hart or the member for Elder to ask—a grubby, grotty question. But, sadly, for once, the member for Kaurna fell into their trap. I will put on the public record what he said. As the local member for Mawson as well as the Minister for Emergency Services, I have responsibilities, and I know that the electorate of Mawson is not very happy about the fact that Labor's policy for an ambulance station at best in Mawson is that members opposite do not agree that there should be a 24-hour fully manned ambulance station in McLaren Vale. That is very disappointing.

Mr Hill interjecting:

The Hon. R.L. BROKENSHIRE: I will tell the member for Kaurna what the officers are saying. The fact is—and I know that the opposition does not like hearing this—that in South Australia we are seeing unprecedented growth, economically and socially. As a result of that, we are delivering more for South Australia. An independent report was commissioned by the ambulance service and the ambulance service board, and that report referred to a growth in demand. Sadly, some of that growth involves trauma (and we have seen 14 fatal accidents on the Fleurieu Peninsula already this year, accompanied by a massive increase in road trauma and casualty crashes). Sometimes when ambulances are moved from, say, Aldinga, they can end up at O'Halloran Hill, so we have to pull an ambulance from Victor Harbor, Yankalilla or Goolwa, and a significant void was found to exist, so the board made a decision that McLaren Vale was the place where the station should be located.

If the member for Kaurna is talking about innuendo and these sorts of issues, is he suggesting that I am pork barrelling for the Independent or Labor candidates? Let me give these examples. We are building a new ambulance station worth $200 000 in the area of Camden Park, in the electorate of the member for Hanson. Is that pork barrelling? We are building a new ambulance station at Coober Pedy in the electorate of the member for Giles, a Labor electorate. Is that pork barrelling?

The Hon. M.K. Brindal: Has she said 'thank you'?

The Hon. R.L. BROKENSHIRE: No, she has not said 'thank you'. In Murray Bridge we are building an ambulance centre for the member for Hammond. Is that pork barrelling? We are also building an ambulance station out on Milne Road and Golden Grove Road that will service the seat of the member for Elizabeth. Is the opposition saying that I am helping or pork barrelling for the member for Elizabeth? The fact is that the board, through good management and good decision making, has chosen to build these nine ambulance stations, and I am very proud to see that our government is supporting the ambulance service to the tune of about $35 million a year.

I would also like to say in conclusion (and this is very important) that the $3 million that we are spending on those ambulance stations is budgeted. That is in stark contrast to the Leader of the Opposition when he was Minister for Tourism, when during the Business Asia Forum in November 1993, just before the last election when Labor was in office, the taxpayers spent $765 000 to fly people from Asia and give them the royal carpet treatment at the Grand Prix on the eve of the election.

The SPEAKER: Order! There is a point of order. The member for Elder.

Mr CONLON: Quite plainly, my point of order is that the minister is debating not even the question but something else, and he should be brought back to the substance of the question, which is about ambulance stations.

The SPEAKER: I bring the minister back to the question and ask him to reply to it.

The Hon. R.L. BROKENSHIRE: Thank you, sir. I was about to wind up. In conclusion, it involves $3 million, which has been budgeted for and is not on the plastic. Back then with the Business Asia Forum—

The SPEAKER: Order! There is a point of order.

The Hon. R.L. BROKENSHIRE: —they were $415 000 over budget—

The SPEAKER: Order! I just caution the minister. If the minister continues to debate the question when the chair is on his feet, he might be dealt with seriously.

Mr CONLON: The point of order is that he intends to ignore your ruling and return to what he was going to say.

The SPEAKER: I do not uphold the point of order, but I think I have made my point to the minister.

LE MANS RACE

The Hon. J.W. OLSEN (Kavel): I seek leave to make a personal explanation.

Members interjecting:

The SPEAKER: Order! The House will come back to order.

Leave granted.

The Hon. J.W. OLSEN: I sought leave to make a personal explanation relating to claims made in this House yesterday about the Le Mans car race, and I wish to add further to the Premier's ministerial statement of this day. The member for Hart, in his attempt to make political mileage out of this, has conveniently ignored a few things, such as the

facts. It is my view that this is an ambit claim by Panoz Motorsport—

The SPEAKER: There is a point of order. The member for Kavel will resume his seat.

Mr CONLON: The member for Kavel is not a minister. He only has leave to make a personal explanation. He has already told us that he is going to offer his views, and this is not appropriate.

The SPEAKER: Order! The chair is listening very carefully to the member for Kavel. It is a personal explanation for which leave has been given, not a ministerial statement. I am sure that the member will take that into account.

The Hon. J.W. OLSEN: Indeed I will, sir. A claim that the Premier has mentioned in his ministerial statement—

Members interjecting:

The SPEAKER: The member for Stuart will remain silent.

The Hon. J.W. OLSEN: —will be vigorously defended by the government. The facts as they relate to me are as follows. At no time did I, in my capacity as Premier, act in a manner as claimed by Panoz Motorsport Corporation because, as the Premier indicated today, premiers do not conduct negotiations at this level. In fact, any negotiation—

Members interjecting:

The SPEAKER: Order! There is a point of order.

Mr CONLON: If he alleges that he did not conduct himself that way, he is free to do it. However, he is not free to go on and debate a personal explanation. If it were one of us making this statement, we would be kept very briefly to the facts.

The SPEAKER: I do not uphold the point of order at this stage.

The Hon. J.W. OLSEN: In fact, any negotiations in relation to further races were to be carried out by the Chief Executive Officer of the South Australian Tourism Commission, Mr Bill Spurr, under delegation, as attested to by the statement of claim No. 30 RSD, clause 27—

The SPEAKER: Order! There is another point of order. The member for Lee.

Mr WRIGHT: The member is clearly not making a personal explanation. He is clearly in breach of standing orders—

Members interjecting:

The SPEAKER: Order!

Mr WRIGHT: The member is clearly debating. The only opportunity that the member, not the former Premier, now has is to do that in a grievance debate.

Members interjecting:

The SPEAKER: In the view of the chair, the statement is moving between a personal explanation and then starting to border on a ministerial statement. I would ask the member for Kavel to stick strictly to the personal explanation.

The Hon. J.W. OLSEN: It is alleged that there was repudiation of an agreement. There was no ongoing agreement in place at the time. Clause 16 of the statement of claim clearly indicates that the South Australian government had an option to stage the event for additional years.

The SPEAKER: Order! There is a point of order.

Ms HURLEY: The member for Kavel is going off the personal explanation and is discussing what the government position is. I ask you to bring him back to a personal explanation.

Members interjecting:

The SPEAKER: Order! The chair is having some difficulty in accommodating the member for Kavel. I believe that the member has every right to try to get on the public record if he feels that he has been aggrieved and that a personal explanation is required. I would ask the member to stick to the personal explanation.

The Hon. J.W. OLSEN: I was aggrieved by comments and suggestions made by the member for Hart during question time yesterday which, subsequently, the media in South Australia reported at length. Today, I am attempting, in the only forum I have, to explain personally against those claims of the member for Hart that have been reported upon.

Members interjecting:

The SPEAKER: The chair has no problem with that, and the chair has not said that the member cannot proceed with a personal explanation. I am just asking the member to confine his remarks to the personal explanation, and the House knows what my views are.

The Hon. J.W. OLSEN: Thank you, sir. Further, as with all negotiations on behalf of government, they are subject to cabinet decision. The decision not to stage any further races was deliberated on by cabinet. At all times, I acted in the best interests of the state, and cabinet made its decision based on sound advice and in the interests of protecting taxpayers in our state.

Members interjecting:

The SPEAKER: Order!

GRIEVANCE DEBATE

Mr WRIGHT (Lee): This is an amazing set of circumstances. Surely, someone on the government side should have the courage and the guts to tell the former Premier that he is now a backbencher—nothing more and nothing less. The former Premier is now a backbencher and nothing else.

The SPEAKER: Order! There is a point of order.

The Hon. M.K. BRINDAL: During the member for Kavel's previous explanation, a number of points of order were taken and you, sir, ruled that the member for Kavel was in order. I contend that the member for Lee is reflecting on your ruling, sir, and I ask your deliberation on this matter.

The SPEAKER: There is no point of order. We are now in the grievance debate.

Mr WRIGHT: I have made my point and I know that the government is also embarrassed by its former Premier. Let there be little doubt about that—the dishonest former Premier, the member for Kavel, is now a backbencher in the parliament. I did not want to talk about that today because he is history. He is the forgotten Premier: he is the forgotten man of this parliament. I wanted to talk about local issues—

The SPEAKER: Order! We have another point of order.

The Hon. R.L. BROKENSHIRE: On a point of order, sir, I understand that a member must refer to the member as the honourable member or by his seat, not 'he' or 'she'.

The SPEAKER: There is no point of order. The member knows the rules.

Mr WRIGHT: Thank you, sir. They are very sensitive and they know that the member for Kavel just flouted the rules of this parliament. They know that he used an opportunity and abused the privileges of this parliament.

I want to talk about a local issue today, and I do not want to worry about the former dishonourable Premier of South Australia. He is a forgotten person. During the course of this year, the government, as a part of its program, spent about $2.5 million on a bus priority lane for West Lakes Boulevard.

I may not have the precise figure, but I think it was about that amount of money. That bus priority lane, which is on a part of West Lakes Boulevard, came into operation this year to facilitate the flow of traffic for football days, primarily, of course, for AFL days when there is heavy volume. That was used for a number of weeks in the latter half of this season.

It is important to point out to the House that some consequences—perhaps unintended—have been felt by residents at West Lakes in particular, as well as in the general area. Concerns about safety and issues regarding convenience have been expressed by residents in that area. These issues need to be noted. I have raised them with the Minister for Transport, the Hon. Diana Laidlaw, and so have a number of my constituents, but these matters still have not been addressed. A number of concerns and safety issues need to be resolved. We are obviously now out of the football season, so this would seem an ideal opportunity to resolve those issues. I remain disturbed that one of my constituents, Mr Adcock, has not even received a reply to a letter he wrote to the minister six weeks ago.

I know that the Minister for Transport and the Arts has been under a lot of pressure and is not handling her portfolios too well. However, I expect that she would at least have had the courtesy to respond to a constituent who has put forward a number of very good suggestions to overcome some of the safety problems involving West Lakes Boulevard and the surrounding area. I hope and expect that the minister will address that matter. My constituent has now had to write to the Premier. At this stage, he is not critical of the Premier because he has only just written to him. However, he has been forced to do so because six weeks ago he put on the public record some very good suggestions to the minister. He was kind enough to send me a copy of that letter. As a result of that, I immediately met with my constituent. It is very tardy of the minister not even to have acknowledged that correspondence. These are safety issues that need to be addressed for the benefit of the local area, including West Lakes residents.

Time expired.

The Hon. G.A. INGERSON (Bragg): Over the last weekend and the last few days I have been fascinated by the federal election result and the effect it might have in South Australia. Some very interesting comments have been made, as well as some very interesting leaks having occurred. All those things happen when parties are under pressure—and I know about that from experience. One matter I found interesting was a comment made on radio 5DN by the Leader of the Opposition, the Hon. Mike Rann, the day after the election. He said:

> I think Mr Beasley would have made a great Prime Minister with a real sense of our nation's history but also with a real vision of the future. On the local level in South Australia, I think we did much better than all the polls suggested.

What an amazing statement! On the same day, a very honourable senior senator said:

> Our vote keeps getting worse. . . only one in three first preference votes for the Labor Party in South Australia.

What an amazing conflict of view! On one hand, the Leader of the Opposition said that the party did well; on the other hand, the honourable senator, who lost his seat, said that his party's vote keeps getting worse, gaining only one in three first preference votes. He continued:

> There should be a proper post-election review about the party structure generally in Australia but particularly in South Australia. . . this just can't go on just ignoring the clear bad result. The Machine is interested in winning preselections. . . it's no use winning the preselections if you can't win the seat.

Obviously, he was referring either to the member for Ross Smith or to the member for Price, both of whom I suspect will win. I suggest that the excellent results in Enfield will help the member for Ross Smith in particular to win. I further suggest that the high Liberal vote in a lot of Labor seats will help many Independents win. Senator Schacht continues:

> Large numbers of Labor people are disillusioned and just won't work for the Labor Party, won't join up. We have difficulty now in large parts of rural South Australia. . . It's got to change, otherwise we will continue to go down, unfortunately, to becoming even less than one-third of the first preference vote of South Australia and you can't win elections from 33 per cent.

Isn't that amazing! Yet we have all these superstars opposite who are cock-a-hoop about how well they did. What an amazing set-up! Further, the senator states:

> People [in the Labor Party] are more interested in faction fighting than getting out and building a broad-based Labor Party.

Of course, that would not apply to all these young union blokes who have just come into the Labor Party and who stand up as great controllers of votes. They have organised themselves and said that this is the best result ever for the Liberal Party since the depression. That is even 10 years before I was born. Here we had the Leader of the Opposition saying, 'We did better than the polls suggested.' I would hate to see how well they did if the polls suggested that they would win. What a great fillip it is for the Liberal Party of South Australia, and what a great result for all our federal colleagues.

The result is even better for South Australia because, on the highest single vote ever, we have built on it again in the federal election. Of all the people who stood for election, only two women members—with one exception; she might still get over the line—were going to be defeated: one in Makin and one in Hindmarsh. When I started in politics, Hindmarsh was the strongest Labor seat one could have held. The Hon. Clyde Cameron would wonder what was happening. In the next chapter of his book, Mr Cameron would have to be saying, 'What happened to my beloved Labor Party? Where have they gone? What have they done wrong?' I enjoy anything Senator Schacht might say.

Time expired.

Mr KOUTSANTONIS (Peake): I will discuss briefly the federal election in a moment. I want to first touch on the tragedy in New York of the plane crashing in the suburb of Queens just outside JFK Airport. My electorate is in and has built-up areas under the flight path. I am now publicly calling on the airlines, airport and state government to issue an order that, until this war on terrorism is over, all aeroplanes come in not over West Beach but over the sea which is not in the path of residents. I am concerned about the threat to Australia and to our airline safety. I am also concerned about an accident happening. Yesterday we witnessed in New York the tragedy that can occur in a built-up residential area near an airport. Whether it is as a result of terrorism or an accident, we must be careful, because there are schools, hospitals and residences under the flight path.

An honourable member: Do you want to shift the airport?

Mr KOUTSANTONIS: Yes, I would like to shift the airport. The important thing is that safety of the residents

should be first priority, and until this threat is over, aeroplanes should come in over the sea.

I now refer to the federal election. I was taught at a very early age that victory has many parents and that defeat is an orphan. The member for Bragg got up and waxed lyrical about the federal election result. I would bet $1 000 that that guy had nothing to do with the federal election result. In fact, he probably did not even work at a polling booth on election day. I am very proud of our candidates. I am very proud of Julie Woodman, and I am especially proud of Steve Georganas, who has worked tirelessly for five years in the seat of Hindmarsh and who did everything he could to win that seat. I am very proud of Tim Stanley, for whom I was campaign director, and I take full responsibility for that seat.

If we lose, I will take responsibility for the loss. However, if we win, Tim Stanley will be the only Labor candidate in the country to knock off a sitting Liberal member of parliament. And members opposite are happy about the result in South Australia! On the Wednesday after the weekend election, the only sitting Liberal member in the country who still does not know whether she has won her seat is still behind in the counting. Members opposite are waxing lyrical about how well they did. We will see. I am also very proud of the Leader of the Opposition's effort during the election campaign.

He was a rock for us to lean on. Whenever we needed advice, we went to him. He is one of the best marginal seat campaigners in the country, and he did his best for the Labor Party in South Australia. But the election was fought on federal issues, not on state issues. If members opposite think that it was fought on state issues, let them call an election. Let us see how they go. Let us debate it again. Let us debate the way in which they have treated hospitals and schools; and let us debate the way in which they are treating law and order and police in this state. But they will not: they are running scared. They will call the election in March to maximise their pensions, because they like the white cars.

There are two more people whom I want to congratulate for their work, and they are Cathy King and Leon Bignell. These two people, who ran the federal campaign, did an excellent job. They worked day and night for the Labor Party. We did everything that we could; there was nothing more we could have done. But the people of South Australia have chosen to back John Howard and, as far as I am concerned, the customer is always right. John Howard has been given another mandate to govern for three more years, and I wish him well. But I hope that, in his governance of Australia, he still considers the views of those of us who did not vote for him (almost half of the voters) and who believe that jobs, education and hospitals should be the priority of the government.

Our policy on refugees that Kim Beazley put forward was the only option we had, and I do not like to see the rewriting of history by members of parliament or failed candidates, who now appear to be attacking Kim Beazley. Kim Beazley was a great leader of the Australian Labor Party, and I was very sad to see him resign. I think he would have been an excellent prime minister, and I am very proud of the effort that he made. I think that history will judge Kim Beazley much more kindly than it will John Howard. Kim Beazley is a man of substance. He reminds me of John Curtin. From what I have read about John Curtin, what killed him in the end was going to bed at night worrying about Australian soldiers abroad and what was happening to them. Kim Beazley would have been the type of prime minister who would have gone to bed worrying about the Australian public—and he probably still does—worrying about their lot in life, their children's education, the hospitals, the schools that they are not getting an education from, and the treatment they deserve.

The Hon. D.C. KOTZ (Minister for Local Government): I wish to take this opportunity to acknowledge the South Australian Breast Cancer Action Group, which I commend on its very substantial efforts to raise awareness of breast cancer and to offer hope and inspiration to those living with the disease, including patients and their families and friends. The mammogram screening program managed by BreastScreen SA has been an excellent program, which has been used to detect and identify early cancer growth. It is also extremely pleasing to note that the latest figures indicate that the breast cancer death rate in women has dropped by about 20 per cent.

I advise the House of my personal interest in these issues for many reasons, and of my longstanding support for improved and continuing resources to assist in the fight against the ravages of cancer which goes back to the 1990s. In August 1990, I recall moving the following motion in the House:

> That in the opinion of this House the government should continue funding for the free screening mammograms for women aged 50 to 64 years, and to include women aged between 40 and 50 years.

This was after the pilot screening program had been set up here in Adelaide. However, the federal government of the day had provided some $64 million that was on offer over three years if state governments picked up on a dollar by dollar subsidy any of that money to ensure that the breast screening programs continued. That followed a very intense campaign that was undertaken and run out of my electorate office, with the support of two other women. We had a committee of three who managed to mock up posters and letters, which we sent out to all the areas where women gathered, networked or participated in sports at the time. When I moved the motion on 16 August 1990, we had a petition of 5 000 signatures. By the time the motion was debated and completed, on 15 November, there were 6 000 signatures on those petitions.

I would like to acknowledge the two other women who all those years ago supported this campaign, which looked at maintaining the screening program here in South Australia—and members should recall that the motion followed a rather intense campaign to bring to the government's intention the importance of this issue. The two women who were part of this three member committee are Dianne Stone and Lyn Tagg.We also had some support at the time from the Tea Tree Gully Community Services Forum, which invested some money to make sure that we could mail out to the women whom we needed to contact in order to advise of the problems with this program.

It was almost with a sense of deja vu that, on 14 April 1994, I found myself moving a second motion, as follows:

> That this House calls upon the Prime Minister and the federal Health Minister to increase research funds to help combat breast cancer from $1.4 million to $14 million in the 1994-95 budget, and to consider initiatives through the tax system to encourage donations for breast cancer research.

Again, we had a situation where the funding had run out, and neither of the governments at that stage was moving forward or foreshadowing any funding for the coming years. So, again, it was a matter of another intense campaign. I am very

pleased to say that, on 12 May, that motion was again supported by government and opposition.

Prior to mammogram screening, only some 13 per cent of female breast cancers in South Australia were diagnosed. By 1997-1999, this proportion had increased to 36 per cent for women of all ages, and to almost 50 per cent for 50-69 year olds. A report that came out in 1999 (which is still the most current report) was certainly showing a notable year in South Australia because, for the first time, the South Australian cancer registry did not find breast cancer to be the leading cause of cancer deaths in females. Specifically, the number of deaths from breast cancer had dropped. Unfortunately, it was exceeded for the first time by deaths from large bowel cancer.

I also want to put on the record that we have had another success in the fight against cancer, and that is by the acknowledgment of the federal government of a new program for $11 million, which will provide the drug Herceptin, which will be made available under a special new program free of charge to patients who meet the criteria for the treatment of this drug. I believe that there are about 530 women throughout Australia who, if they had to pay for this treatment themselves, would be liable for something like $60 000. I am very pleased to say that the previous federal Minister for Health has approved this whole program.

Ms BREUER (Giles): Today I was very proud and privileged to take part in a ceremony in Whyalla, where the first 2 000 tonnes of rail moved out of Whyalla's OneSteel plant departed from the nearby Australian Southern Railways freight yard. I was very pleased to ride on the train on the first stage of the journey to Port Augusta, along with the Premier, the former Premier and the member for Stuart. This freight is to travel through Port Augusta to Alice Springs, and will then be dispatched to sleeper plants at Tennant Creek and Katherine for stockpiling and processing. This load of rail from OneSteel will be sent out once a week for the next 20 months, so it will be 2 000 tonnes of rail each week. This really is the start of the building of the Alice to Darwin railway.

At Port Augusta, we inspected the first completed ballast wagon of 65 that are to be constructed by the local EDI Rail in Port Augusta, and some of our people will gain jobs there. The project has been vital for OneSteel, of course, and has created some 40 jobs with OneSteel. I was very pleased to hear, when talking to some of the workers there today, that some previous former employees in the rail area have gained jobs again with OneSteel with this project. I would like to congratulate Leo Sellick, the President of OneSteel, Whyalla, the unions in Whyalla, and certainly all the staff and the employees of OneSteel for their efforts in getting this rail out today. I thought it was significant that the first rail for the railway was rolled on Tuesday 23 October, which was exactly one year from the formation of the new OneSteel company. I would like to congratulate again all those at OneSteel for its success in its first year. It certainly has not been an easy job getting the company going, but it has been very successful. Congratulations to all of them.

The Whyalla operation produces over 1.2 million tonnes of steel a year and, of course, the site specialises in the production of structural sections for both the domestic market and the South Pacific and Asian markets. It also produces rail track products, steel sleepers and steel slabs for export. Some 1.2 million tonnes of raw material, which includes coal, limestone and iron ore, is transformed each year into 750 000 tonnes of steel billets, which is the finished product. Of course, a lot of the iron ore comes from the Middleback Ranges, near Whyalla, which is the reason Whyalla was originally established.

As a responsible corporate citizen, Whyalla Steelworks and mines is committed to conducting its operations in an environmentally responsible manner and, as such, it balances the needs of industry with the environment and the expectations of the community in which the site operates. The ongoing issue for the company is the legacy from BHP of the dust problem in Whyalla from the pellet plant. There are many ongoing concerns about this and it is certainly not an easy problem to solve, unless they close the pellet plant. OneSteel is aware of this, but more needs to be done in this industry.

There has been a new sense of optimism in Whyalla. Because of the success of OneSteel, many young families are buying houses and establishing themselves. That is a good omen for the future, particularly for the eastern schools in Whyalla, including Whyalla Town Primary School and Memorial Oval Primary School, which have a marked increase in enrolments for next year. Whyalla High School, in particular, has some 40 more students enrolled for next year than the current year 10 level. That means that families are expressing their support for Whyalla High School by enrolling their children there. Of course, a cloud hangs over the future of Whyalla High School because of a recent review of the schools in Whyalla and a motion moved at that review by the Mayor of Whyalla to close Whyalla High School without any research on, or thought or consideration being given to, the impact of closing this school. I think the new enrolments are indicative of the support Whyalla High School receives, and I urge the minister to let our community know what his decision will be.

I also congratulate Indulkana Anangu School on its 30 year anniversary last week. Principal John Hawkins hosted celebrations at the school, and the Anangu children were able to show their pride in 30 years as a school, one of the first schools in the Anangu-Pitjantjatjara lands. I also foreshadow a number of questions I have about the closing of the clinic at Mintabie, which is not far from Indulkana. Frontier Health Services is closing its health clinic in Mintabie. This seems a strange proposal, considering that a community of 280 will lose their clinic to a community of 70 people in Marla.

Time expired.

Mr MEIER (Goyder): I, too, offer my congratulations to the Howard government and to the Liberal Party for its great win on Saturday night. It appears from the current figures that the combined Liberal-National Party seats in the new House will be 78, Labor 65, Independents three, with four still to be decided. It is a very heartening result. I guess I always had confidence in the Australian people, but it reinforces my confidence that they have seen the need to continue with a stable government; a government that obviously won the election on issues such as a low inflation rate, low interest rates and a stable economy; a government that was able to pay off some $50 billion of the nation's debt during its previous few years.

The Hon. R.L. Brokenshire: Off Labor's debt!

Mr MEIER: Off Labor's debt, as the minister reminds me—and bringing it down from something like $90 billion to about $40 billion. Thank goodness we have been returned, because we can continue to pay off the debt and spend a little more on things on which we would like to spend money. It

was rather ironic that the Labor Party tried to hit us on things such as education and health. I could not believe the attack that the Labor Party was making on the coalition in relation to the funding of private schools when the truth is very clear, indeed. Each student in a government school receives something in the order of $6 500 (that is total federal and state money) whereas in the private sector each student receives something like $3 500. There is a huge discrepancy in the amount of money that a private school student receives, but the Labor Party was trying to say that the private schools are being advantaged. I have no idea how they tried to get across that message. Thankfully, the people of Australia did not bow to that one; they were not so dumb.

I guess we saw Labor not knowing where they were going. In fact, I will pay a tribute to the Leader of the Opposition here who in this morning's paper was quoted as saying that there was 'confusion over what Labor stood for with the party's "three different positions" on the Tampa border protection bill'. They had no idea where they were going. The irony is that, while they tried to show a united front for the war against terrorism and the Tampa crisis, the minute they were defeated they said, 'We didn't really want to do that anyway.' Now we are getting the real people speaking out and saying, 'That wasn't supposed to be our policy. What went wrong? How come we went to the election on that?'

Thank goodness the coalition has been re-elected. One thing that everyone in Australia knows is that we will take the refugees who we believe are the most worthy people to come into this country. Everyone appreciates that there is a huge line-up to get into Australia, and I know of British migrants who have not been able to get into Australia because they do not have enough points. Why should we allow people in who are lucky enough to have one or two points, let alone the required number of points to get in? Thank goodness the coalition has won.

It is also interesting to see how the Greens have revived themselves somewhat. It is a great worry when the Greens were backing the anti-war protest that we saw in previous weeks. There is a war in Afghanistan where in the past 48 hours we have seen women being liberated. Women were forced to cover their faces; they were not allowed to go to schools or have any education; they were forced to stay in the home and not have a job; they were treated as very second rate citizens. Thankfully, they are being liberated in Afghanistan as a result of Australian, American, British and other forces coming in. Even the men, of course, are being liberated by being able to shave off their beards. Yet the Greens opposed our involvement over there. I am surprised that so many people voted for them.

In relation to the Democrats, I will pay full tribute to John Coulter for having identified, a few days before the election, that the Democrats had lost their way; that they were not the party of which he was a member in earlier times. I acknowledge fully what he said. So, congratulations to the coalition on its victory.

Time expired.

PUBLIC WORKS COMMITTEE: PORT PIRIE WASTEWATER TREATMENT PLANT UPGRADE

Mr WILLIAMS (MacKillop) I move:

That the 160th report of the committee, on the Port Pirie Wastewater Treatment Plant Upgrade—Final Report, be noted.

The Public Works Committee has examined the proposal to apply $6.2 million of taxpayers' funds to implement the Port Pirie Wastewater Treatment Plant upgrade. SA Water owns and operates the Port Pirie Wastewater Treatment Plant, located approximately two kilometres west of the city under licence from the Environment Protection Authority. The plant was commissioned in 1971 and further upgraded in 1981. It was designed originally to service a population of 17 500 people, but currently serves about 14 000 residents.

The existing plant operates as an aerated lagoon system using natural biological processes. Treated waste water discharges into the head of Second Creek, a tidal inlet that flows into Spencer Gulf some 7.5 kilometres downstream from the plant. Environmental effects are confined to the upper 1.8 kilometres of Second Creek. A condition of the EPA licence to operate the northern Spencer Gulf waste water treatment plants and discharge waste water into the marine environment required SA Water to develop and implement an environment improvement program.

The proposal by SA Water is to implement the Port Pirie Wastewater Treatment Plant environment improvement program to achieve compliance with the Environment Protection Act 1993. The upgrading will include:

- changing the treatment process from an aerated lagoon system to an activated sludge process by constructing a new sequencing batch reactor (SBR) process plant.
- modifying the existing lagoons to improve disinfection of the treated waste water before discharge.

The proposed upgrade of the treatment plant will improve the quality of the treated waste water discharging into Second Creek. The SBR process involves construction of two new reinforced concrete tanks alongside the existing lagoons complete with aeration and sludge pumps. A new building to house a laboratory and monitoring equipment will be built adjacent to the new tanks. The proposed new plant will incorporate an SBR process to treat the waste water in order to reduce the level of nutrients and suspended solids.

The existing lagoons are to be modified to increase detention times in order to extend the disinfection period for the treated waste water, utilising natural sunlight. The improved quality treated waste water will then be discharged into the existing outfall channel before entering Second Creek and ultimately Spencer Gulf some 7.5 kilometres downstream. Access to the lagoons for maintenance will be upgraded. The upgrade will be contained within the existing site boundary and have negligible impact on local residents during construction. Construction is planned to commence in April 2002 and is expected to be completed by January 2003. There has been an extensive public consultation process and the proponents have received support from the regional council of Port Pirie and the community. The key aims of the project are:

- to reduce concentrations and load of nitrogen in the treated waste water being discharged into Second Creek and subsequently Spencer Gulf;
- to ensure that the dissolved oxygen levels in the treated waste water are maintained at levels adequate for the plants and fauna in the tidal creek;
- to ensure ongoing monitoring of discharge to Second Creek; and
- to fulfil the environmental responsibility of SA Water and the state of South Australia.

The proposed upgrade of the plant will:

- improve the average discharge quality from the plant at the designed load of four megalitres per day;
- assist the upper stretch of Second Creek to significantly recover to its more natural state;

- restrict noticeable impact on the upper 1.8 kilometres of Second Creek;
- further reduce risk of odours emanating from the plant and impinging on nearby residential areas; and
- enable recreational activities—fishing, cockling—to continue in the middle reaches of the creek and to minimise the impact on the Spencer Gulf waters.

The proposed project is being undertaken for compliance purposes and has not been undertaken for the purpose of generation of additional income. The project has a capital cost of $6.2 million. The proposed works will have a higher operating cost totalling $360 000 per annum for the first five years while the monitoring program exists, and then reducing to $354 000 in subsequent years. Compared to existing costs, the higher charges are due to the increased power requirements and ongoing maintenance needs for the equipment itself.

The impact of the project on the Consolidated Account has already been factored into the government's financial plans. Economic analysis indicates that from a whole of community perspective the net present value loss is $8.2 million and the benefit cost ratio is 0.06. Although the results of the analysis indicate that the project has a low economic justification when quantifiable benefits are taken into account, a range of unquantified benefits also need to be considered. These include:

- the reduction in risk of odours from the plant that may impinge on nearby residential areas;
- the reduction of impacts on recreational activities, including fishing and cockling in the middle reaches of Second Creek; and
- the reduction of impacts on Spencer Gulf waters.

The committee notes that the proposed project will improve the amenity of the Port Pirie district and produce tangible environmental benefits for the Second Creek system. The committee notes that the proposal will remain within the boundaries of the present plant and will have negligible impact on local residents, either during construction or its future operations.

The committee notes that the upgrade meets the requirements of the Environment Protection Act 1993 through the environmental improvement program. The committee notes that, although the re-use of waste water for community or commercial irrigation would be an optimal outcome, the unusually high salinity levels of the water in the area make any re-use options prohibitively expensive. The committee notes that the proposal has the full support of the local council and the community. Pursuant to section 12C of the Parliamentary Committees Act 1991, the Public Works Committee recommends the proposed work.

Ms THOMPSON (Reynell): This is one of those straightforward projects that we were very happy to support on a bipartisan basis. The agency seemed to have done its job well. There was no need to instruct it further on the need to consult. It did point out to us the issues raised by the community, and we were able to satisfy ourselves about its response to those concerns.

It was interesting to discover when we went on the site inspection that our two taxi drivers did not know that there was a waste water treatment plant in Port Pirie. They probably imagined that it had just disappeared all by itself quite magically. That is an indication that it is at least suitably located. The maps of the area suggest that the current treatment plant is quite close to potential residential areas, but the council pointed out that, of late, residential development has tended to be more towards the hills. We were able to see for ourselves that there are no houses within three or four kilometres of the treatment plant.

Another issue was the impact on Second Creek of the point of discharge. We were able to see that the decision of the proponents seems to have been made in the best environmental interests of the creek. They explained to us their rationale for making their decision, and we saw from the ground and the air that it seemed to fit into the natural watercourse in the most compatible manner.

The other issue, as the member for MacKillop has mentioned, was that the local residents had responsibly indicated that they wanted options explored for the reuse of the water from the treatment plant. However, the evidence showed quite clearly that the salinity level was too high to allow it to be used for the watering of ovals or anything else, so that really was not an option. I am pleased to say that this was a straightforward reference, and the committee recommends the project.

Mr LEWIS (Hammond): This project is one which I, too, had the good fortune to examine as a member of the committee—indeed, as its Chairperson—but I was not here when we gave notice of it. I am pleased to support the proposition today. Two things stand out in my mind upon which I would remark in addition to those which have already been sensibly and necessarily mentioned by previous speakers. The first of these is that the existing ponds are not unhealthy in any respect. They support an enormous population of bird life. Indeed, the black duck that I saw were quite thick, and I was curious to discover (having checked on it) that they were not out of bounds and would make good hunting in an open duck season if we ever have one again—and I hope we do. I will not be there shooting them, but I am sure that other people would be interested in that.

The other point that I make is that the managers of the system have taken great care to ensure that the least possible measure of discomfort to the public has been caused by the existing system and its inadequacies and that dosing with oxygen and so on has ensured that there has not been the generation of higher levels of odour than is acceptable by today's standards. That is to be commended. The fact that the public have not complained about it is something which all members of the committee noted during the course of our inspection.

The other thing that we were able to discover was that so low is the level of public anxiety and concern that I do not think anyone responded to the invitation, at the time of public consultation being called for, to come forward and say that they were concerned about one or other element of the existing practice or the proposed changes to practice which would be possible as a consequence of the work. The Mayor of the Port Pirie Regional Council, Mr Ken Madigan, was very helpful to the committee.

The Hon. R.L. Brokenshire: He's a good man.

Mr LEWIS: He is someone known well to the Minister for Police, I believe. This regional council is well led by him—in that I concur with the Minister for Police. I was also impressed by the fact that there were other people present from the community. They saw that the Public Works Committee was coming. A couple of them misunderstood the reason we were there but, in due course, upon its being explained to them, they immediately understood what we

were talking about and what our focus of attention needed to be, and left it at that.

In addition to those people, Mr Dino Gadeleta, the Chairman of the Environment Management Committee, and Mr Sam LaForgia, the Manager of Environmental Services, both of Port Pirie Regional Council, were able to verify and shed additional light on what SA Water was saying. I commend and thank Ken Madigan for his diligence and I trust that he will pass on to the council our thanks for the use of their council chamber in which we conducted the hearing.

I congratulate John Williams, Chris Goodwin, Ashok Thaper and Lester Sickerdick of SA Water who gave evidence to the committee. It was a good project and an essential one to ensure that no problems emerge in Port Pirie, and it was well presented and well argued. With those remarks I commend the Acting Speaker for the manner in which she has conducted the affairs of the House during her sojourn in the chair, and I thank the Deputy Speaker for his indulgence. I commend the project to the House.

Motion carried.

PUBLIC WORKS COMMITTEE: JP MORGAN CHASE & CO REGIONAL HUB BUILDING

Mr LEWIS (Hammond): I move:

That the 161st report of the committee, on the JP Morgan Chase & Co Regional Hub Building—Stage 1—Final Report, be noted.

The Public Works Committee has examined the proposal to apply taxpayers' funds to the JP Morgan Chase & Co regional hub building, stage 1—so-called. Another way to describe this is to refer to it as the demolition of the Payneham Civic Centre project. Painfully, I have to say that this is not something about which I am very comfortable. The committee was told that the government has worked closely with JP Morgan to ensure that its operations are retained in Adelaide to safeguard 200 jobs, and it was also told that should the project not proceed Morgan will remove its operations from South Australia at the end of its lease at Science Park. In July 2001, JP Morgan Chase provided an in principle commitment to enter into a contract with the government to retain and expand the Adelaide operation subject to appropriate accommodation being delivered in time to allow the relocation prior to the end of this year.

Well, that did not give the government much time to move, and somebody in the government should have been watching to ensure that this crisis did not arrive, and that somebody should have been the ruddy minister, instead of bumping it into the lap of some poor unfortunate public servants who had insufficient time to do anything about properly reconsidering the location to which JP Morgan Chase could be resettled.

The proposal is for the Industrial and Commercial Premises Corporation—that used to be the sort of factory premises facilities building group in the Housing Trust—to go ahead and develop an office complex on the corner of OG and Payneham roads, and the building to be located there will provide leased accommodation for the Asia-Pacific hub for Morgan's Investor Services Asset Manager Solutions Group and the staff employed at the centre will undertake back office financial processing functions.

Two development stages are envisaged. In the first instance stage 1 involves the development of the two-storey premium office building and approximately 370 car park spaces and associated landscaping. Well, I have to tell you, the landscaping is not much. I mean, you could fit more around the edge of a postage stamp inside the perforations, and avoiding the colour, than you can around that building in the space that is available. It will accommodate the existing work force and a further 250 new full-time equivalents, to be created between 2003 and 2005.

Stage 1 cost is estimated at $20 million, or just over. Morgans will undertake the fitout separately, at an estimated cost of $3.820 million themselves. Stage 2, if and when it happens, will expand the building of Stage 1 and allow accommodation of an additional 450 full-time equivalents and the construction of an additional 496 open air car park spaces on a nearby site on the western side of Briar Road in Felixstow.

Neither JP Morgan nor the government has yet approved Stage 2, and neither has the Public Works Committee. Whilst I am quite sure I will not be hearing the submission to the Public Works Committee if and when it is made for stage 2, it nonetheless should come to the Public Works Committee when it does. The Minister for Education owns this site on Briar Road.

The Stage 1 land was designated as community land pursuant to the Local Government Act of 1999 and it required, some would say, declassification. Others would say reclassification, and I, in my quaint way, would simply refer to it as requiring rezoning under that act. But, sadly, the council conducted community consultation for the so-called rezoning or declassification as required under the act but they did not conduct specific public consultation about the construction of the JP Morgan building, and that is in spite of the fact that the project was associated with a planned change in land use. So, I and other members of the committee felt that, in two parts so far, we could say it is a good project, but the wrong site. It is not our call to determine where the site should be. We had a few ideas, but it certainly has not been a happy occasion for the people who live in the near vicinity in what was the old Payneham council area.

The council and the ICPC have executed a conditional contract of sale to purchase the Stage 1 land, at an approximate cost of $2.47 million. To his credit, the local member, also a member of the committee, the member for Hartley, recognised there were difficulties immediately with this decision of council to unload this land, surplus to its defined needs, because in the grounds of the Payneham Civic Centre established many years ago is a cross of sacrifice and memorial gardens, along with a rotunda and an arch of remembrance. They are adjacent to the site and they commemorate Australians who have died in the service of our democratic freedoms in this country, in wars and actions associated with conflict of that nature.

JP Morgan and ICPC have amended building designs a couple of times in response to the concerns that were raised by the member for Hartley on behalf of the RSL. And I do not mind disclosing my interest. I would have been appalled with the original footprint of the building, and, as for the people who were responsible for even suggesting it, somebody will put their brains through a washing machine, if they cannot see the sensitivities that are involved there.

JP Morgan and ICPC, as I was saying, have amended their designs in response to those community concerns regarding their possible relocation. The objectives of the project are to retain the existing 200 full-time equivalents in Adelaide, to provide an increase in the number of people employed in the back office sector, to strengthen Adelaide's position as a growing financial centre in Australia and in our region of the world, and to provide a competitive advantage to secure JP

Morgan's dedicated Asia-Pacific operations here in South Australia.

The project will enable the City of Norwood, Payneham and St Peters to redevelop the Payneham Swimming Pool and the parking facilities which serve it and establish a library outreach service and community meeting areas from the proceeds of the sale of the land on which the civic centre is built. Morgans will lease the building. Their rental payments will be based on the interest repayments that ICPC must make to the South Australian Financing Authority, and it is estimated that quarterly rental payments will be approximately $384 600. JP Morgan's initial lease term will be for 10 years with a further four five-year options, which means it is 10 years and, if they take up all the four, that is 30 years.

ICPC as the building's owner will be responsible for structural maintenance costs, not the owner of the building. So JP Morgan is getting a pretty good deal here. They are only paying a very low interest rate on the money that is being invested as capital in the project and they are not meeting any of the structural maintenance costs on the building, and they are not making any payment of the capital cost. That remains a public expense. JP Morgan will be responsible for building occupancy and maintenance outgoings that are the resulting consequence of people using the building.

It is estimated that the project will contribute $129.6 million to the gross state product, with a net present value of $103.8 million after five years; $196 million, with a net present value of $146.5 million after seven years; or, after 12 years, $420 million, with a net present value of $259.8 million. If the government were to sell the property the impact on the consolidated account will be the difference between the sale price and the actual final development cost, in 2002 terms.

The site offers commercial advantages to a lessor through its advertising benefit, and the committee was concerned that this was not raised in evidence—indeed, more than concerned. I was disturbed at the oversight. That is an extremely valuable advertising site on the corner of two major roads, on the Ring Route around Adelaide in the one instance and a radial service road to the north-eastern suburbs in the other instance.

Any proposal to alienate community land to private purposes will cause public consternation, and the council should have provided more than the minimum time stipulated in the act to give adequate opportunity for community consultation. I say on my own behalf, and I am sure other committee members agree with me, that that was complying with the letter of the law but not the spirit of the law. The public in that area in particular, that is, the old Payneham council area, and other people from farther afield were outraged at the way they felt they were conned, and I understand their feelings.

The proponents appear to have relied on council to conduct community consultation and did not do so themselves, as is usual; that is, the ICPC did not do any community consultation. The committee noted the agency's genuine attempts to accommodate community concerns, particularly with regard to the memorial gardens, once they were made known by both the member for Hartley and then the committee itself, when we finally got on site.

I have to tell the House that I insisted that we do a site inspection. We made that decision only, I think, two days before doing so—it was Friday before we went out there. On our arrival, the local community had responded, quite spontaneously, and somewhere around 80 to 100 people were demonstrating their concern about it. The committee strongly suggests to government that it avoid proposing commercial development on community land unless there is careful regard to community concerns and allowance for full consultation to occur before it happens. Alternative sites within the metropolitan area were considered for the project but they were rejected either by Morgans or by the government.

However, the committee is not convinced that the project could not have been developed at an alternative location. I personally believe that it could have and that intransigence on the part of the tenant, given the good deal that they were getting, was unjustified on that point. The committee's opinion is that the choice of the site was ill-advised and that it should have been subject to more extensive consultation and an exploration of alternatives. Nevertheless, the project has the potential to provide a significant benefit to the state economy, especially should JP Morgan extend its lease.

On balance, and notwithstanding its strong reservations about the proposed location of the project and the manner in which inadequate and inappropriate consultation occurred on it, the Public Works Committee reports that it has recommended the proposed public work, pursuant to section 12(c) of the act.

I want to say in summary, first, that it was a gross oversight on the part of the proponents not to disclose to the committee the value of advertising which can be derived from that site, and the benefit of advertising to the leaseholder on the site was not brought into account. Yet, any revenue which results from it will not come to the taxpayers of South Australia; the revenue that will come from any advertising benefit derived from JP Morgan Chase's occupancy of that site will go to it.

The other thing that I want to note in three simple, short phrases is: 'good project', 'wrong location' and 'very bad process'. In future, commercial developments of this kind to keep jobs in South Australia ought to be conducted by government in a far more sensitive manner. Both ministers and public servants should have been alert to what was happening before it happened; they could have used the time that they would then have had more effectively to determine a suitable site for it.

Again, I commend the other members of the committee for the diligence they displayed in a difficult inquiry and, particularly, the efforts made by the member for Hartley to ensure that things were done that were necessary to respect the RSL and also to respect the sensitivities of the other members of the community who were concerned about that aspect of it in getting the building footprint changed.

Time expired.

Ms THOMPSON (Reynell): It is very disappointing to have to speak on this reference in the way that I will. It does not do credit to our state, and it does not do credit to our efforts to try to bring industries of the future to our state. It would have been most unpleasant for the representatives of JP Morgan Chase to sit in the Public Works Committee hearing and to hear members of the community saying quite plainly that they really did not want them there. It would not have been pleasant for them to hear the proponents of the project being questioned by the members of the Public Works Committee, at which stage the inadequacy of their processes was really quite evident. It was an unpleasant process for everybody: it was unpleasant for council, which thought that

it had acquired a bonus, a community asset, but which had really raced into something before it had looked at all the options.

It was also unpleasant for the project proponents, who generally do a really good job in trying to find accommodation for industries seeking to set up here. We have had very happy experiences, in general, with ICPC, who have undertaken some excellent projects, the Coopers Brewery project being one and Bionomics and Bresagen being two others. The Southern Food factory which we will be talking about very soon is another one. ICPC generally does an excellent job; this time I do not think one could say that anybody did anything other than a very mediocre job.

It seems that there was a difficulty in finding a location that suited JP Morgan Chase, but there also seems to have been some problems in the way that resolution of that initial demand was approached. I have with me today a map that shows where the current staff are located. The current headquarters of JP Morgan Chase is down at Science Park, near Marion, and when one looks at where staff are located one sees that there is a concentration around Marion, mainly between Marion and the city, and a heavy concentration around Unley. In fact, there are quite a number down around Aberfoyle Park, Trott Park, Hallett Cove and Morphett Vale, with a few as far away as McLaren Vale. There are a few dots on the map out as far as Elizabeth, but they all indicate one person and, unfortunately, there is something a bit telling on the next page where it indicates that many more of the managers live near Payneham than do the staff.

I, of course, believe that this project should have been located at Noarlunga Centre; it is an absolutely perfect place and, when one looks at where the staff are living, one realises that coming to Noarlunga is quite realistic, especially given that if a suitable location in Adelaide was not able to be found the company would be moving to Sydney. We were trying to keep them in Adelaide rather than Sydney. Even for those living some distance away, a drive to Noarlunga is far more acceptable than a drive to Sydney, especially if you do it every day!

I really am very sad that the industry and tradespeople did not push a southern location much more strongly. I prefer Noarlunga, but Majors Road was quite acceptable to me. We did get some information about that and were told that there were problems with the lack of services at Majors Road; there is also an issue in terms of negotiating with the City of Marion. The City of Onkaparinga, however, was very ready to facilitate a site for alternative locations. I must once again commend the City of Onkaparinga staff who, when I rang them and asked if we could do with this wonderful centre, quickly sprung into action to try to do everything they could to present a proposal. But it was too late, and I was really not satisfied that DIT had explored adequately the possibility of locating the centre closer to the existing centre at Science Park. However, it somehow lit up on the site of the former Payneham Civic Centre and approached the council.

It seems to me that there were two groups with a problem: DIT was trying to find somewhere that met the criteria that JP Morgan had, which included a park-like setting and a fairly large footprint. We were told that JP Morgan believed that this was very amenable to happy staff relationships and that it had worked well in two other sites in the world. Most of their sites are, however, not like this, but it had worked well at a couple of sites so they thought they would give it a go in Adelaide. And good on them; if I was as big as JP Morgan I guess that I would throw my weight around like that, too. DIT was looking for a site.

Mr Lewis interjecting:

Ms THOMPSON: I think the member for Hammond is correct; I would be more courteous. The City of Payneham, St Peters and Norwood was trying to work out what to do with the Payneham Civic Centre. It saw it as a problematic site which was not being fully utilised, according to their criteria. When someone came along and said, 'We'll give you some money for this site,' they said, 'Yippee!' However, they did not really think about the attachment that the community of Payneham would have to that civic centre. Nor did they think about how many people got married there, had their twenty-first birthday celebrations there or came to the library every week, particularly members of the Italian community, many of whom go there every day to read the Italian language newspapers. So, they raced into a process of negotiating with DIT, and then engaged in a community consultation.

In our report, we are critical of the city's community consultation process. However, I should make clear that that is not any criticism of Natalie Fuller and Associates who prepared a report, commissioned by the City of Norwood, Payneham and St Peters. She reported quite openly and honestly after a pretty thorough investigation in the time that was allowed to her. She made quite clear that, whether people came from the old Payneham area or the Norwood, Kensington or St Peters area, they did not support the change of use of the land of the Payneham Civic Centre from community land to a building to accommodate a multinational business. They were more prepared to consider the alternative of residential accommodation in the area, but they certainly did not support a business site being located there.

Of course, there was then the issue of the memorial gardens. While the DIT proponents were very quick in changing the footprint of the building to take it further away from the rose garden and the general memorial area, I cannot for the life of me understand how they proposed it to be as close as it originally was. The original plan would have had the Anzac Day crowd backing densely against the JP Morgan building, and that is just plain silly. The RSL is sad about the fact that its memorial gardens will no longer be able to be viewed from O.G. Road but I think it believes that the matter has been pushed as far as it can be. It is satisfied with the outcome, but it is not pleased with it as it is not what it wanted. The price the council obtained for the building seems to be quite modest.

Mr Lewis interjecting:

Ms THOMPSON: As the member for Hammond has mentioned, it is an excellent site for advertising. Then there are issues about the increased property value that will result as staff may seek to buy property nearby. There is certainly a wonderful benefit to shops in the area as their turnover will increase. This will have an impact on the commercial value, and the council will obtain a benefit from that.

Mr Lewis interjecting:

Ms THOMPSON: The member for Hammond suggests perhaps $1 million. None of these issues seems to have been considered in open discussion by the council. Who knows what might have happened behind closed doors? The community was not involved in any discussion on this or on many of the other aspects on which I am sure the member for Elizabeth will continue to speak.

Time expired.

The DEPUTY SPEAKER: The member for MacKillop.

Mr WILLIAMS (MacKillop): Thank you, Mr Deputy Speaker.

The Hon. R.B. Such: Tell us you want it in Millicent.

Mr WILLIAMS: During discussions I suggested to the committee that I would like this project in Coonalpyn. We have plenty of open space in Coonalpyn, and the jobs would be most welcome. In fact, it would be welcome anywhere in my electorate, just as any member would welcome such a project in their electorate. Obviously, the inspiration behind this fine project was to save 200 jobs, with the prospect of creating another 250 jobs and being able to almost double that hopefully some time in the not too distant future. One thing I like about the project is that the jobs being created here are not like the sorts of jobs we have seen created in call centres throughout Adelaide over the last couple of years—and we have seen a lot of employment created in call centres. My understanding is that these jobs require a somewhat higher skill level. This is one way we can keep our young people in this state.

We keep talking about a clever country, and it is often discussed in political circles how we should increase the education level of our young people. It is pointless increasing the education level or subjecting our young people to endless years of education if at the end of the day we do not have appropriate jobs for them. That is what this project is about—providing jobs that require a reasonable skill level for young people to graduate into. The opportunity will be there for them to continue to upgrade their skills whilst working for JP Morgan. It is important to have these sorts of businesses located in Adelaide and, indeed, South Australia. I would dearly love to have projects such as this in my electorate, although I do not see how it will happen—in the short term at least.

This has been an interesting project for the Public Works Committee because, out of all the projects I have been involved in during the four years I have sat on that committee, it is one of the few projects that has attracted some degree of public backlash and protest. The protests have not been over the project itself. I do not think anyone in the community—and certainly nobody on the committee—has denied the value of having the project. The protests were over the siting—not the area that it will be put on but the specific site—and I will talk about that in a moment. I imagine that all the traders in the Marden area and further out on Payneham Road as far as the Glynde corner would be happy to see this project. I am sure that having another 450 people accommodated on the corner of Payneham and O.G. Roads will present quite a fillip to all the businesses along that part of Payneham Road, and in the Marden shopping centre. When I was a young chap I lived on Payneham Road, so I know the area reasonably well.

The protests were principally about the fact that this was the Payneham Community Centre. It was the seat of local government in the Payneham area prior to council amalgamations. I was never a great fan of council amalgamations. I have a local government background, and I always believed that the strength of local government is the fact that it is locally based. The more locally based you can keep decision making, the better informed you will be with regard to that decision making and the greater the public acceptance of it. It is important to have local government. Having said that, I know that certain decisions have been made in South Australia, and a lot of those councils have been amalgamated. In fact, the number of councils in the state has virtually been halved, from 128 councils to about 69 councils. One result of that is that councils had to rationalise where they had their centre of governance. They also have to rationalise—and this will happen over a period of years—the council assets that are owned, including the community land. Of course, that is what has happened.

The council there now, which is based on The Parade at Norwood, is an amalgamation of the three councils—the old Payneham, St Peters and Norwood councils. Each of those councils had a public library, a town hall or a community centre, administrative offices and various other assets. It would be ludicrous for us to assume that all those assets will be retained in perpetuity. The converting of those assets from community land into some other form of title and their disposal by the council will always cause public angst, particularly amongst those older residents who have valued having their local council just down the road and around the corner, and have valued the sense of community that they gained by being a part of that local government area for many years. That is exactly what has happened with a sector of the community at Payneham. When I say 'a sector', I do not in any way wish to demean the size of that sector. I believe that a petition with some 2 300 signatures on it was handed to the council.

Mr Lewis: That is a lot of people.

Mr WILLIAMS: That is a lot of people, so there is much community concern in that area. Acknowledging the size of that community concern, I must say that I believe the right decision has been made here. Of course, the right decision has been made by the government, which was not involved. The government representative just went along as an honest broker to secure the land for this project. I think the right decision has been made by the local council, albeit that its consultation process may have lacked somewhat, and I think the council will bear the consequences of that, as indeed it has.

Certain modifications to the original plan have been brought about by the protest group. As we have heard, the footprint of the building has been changed. Most important are the changes which have actually allowed the retention in perpetuity of the cross of sacrifice and the memorial gardens which were on part of that community land and adjacent to the old Payneham Community Centre.

I would really like to congratulate my colleague the member for Hartley, who worked diligently with the local community, the council and the proponents to secure those changes. I understand that even at last Sunday's service for Remembrance Day the president of the local RSL branch acknowledged the good work done by the member for Hartley in securing the changes which have saved the memorial gardens. In fact, the building has been moved back. From memory, the closest part of the building will be at least 30 metres away from the memorial gardens. That has been quite an important change. It has occurred in consequence of the work of the local member and the issue having been raised by the local community utilising their democratic right.

I feel somewhat sorry for some members of the local community who I believe thought they would be able to stop this project. As I said, I think the correct decision has been made. I think the protests are largely a hangover from the amalgamation of those old council areas. Unfortunately, if and when it happens in my own community, it will sadden me and others, but this is a fact of life. It is a part of progress. At the end of the day, I think the local community will come to the realisation that this project has improved this area in the city of Norwood, Payneham and St Peters, and it has given

more jobs and more opportunities to the young people of that community. The upside is much greater than the downside in this project.

Mr SNELLING secured the adjournment of the debate.

PUBLIC WORKS COMMITTEE: HEATHFIELD WASTEWATER TREATMENT PLANT

Adjourned motion of Mr Lewis:

That the 159th report of the committee, on the Heathfield Wastewater Treatment Plant Environment Improvement Program and Upgrade—Final Report, be noted.

(Continued from 24 October. Page 2490.)

Mr LEWIS (Hammond): Let me continue from where I left off on the last occasion, when I ran out of time. The committee notes that this project will improve the private and commercial amenity of the Adelaide Hills region and produce tangible environmental benefits for the Heathfield Creek, Sturt River and Patawalonga Basin water systems. The committee notes that the upgrade meets the requirements of the Environment Protection Act through the environment improvement program. The committee is concerned that the proposed upgrade does not have the capacity to cope with an increasing winery waste that may result from an expansion in the number of wineries in the Adelaide Hills region. The committee heard that, in order to cope with all winery waste in the area, the plant would have to double the capacity it will have after the present upgrade.

The committee heard that the agency is investigating a number of options available to it for the effective disposal of winery waste. These options include the transport of the waste from the wineries to larger waste water plants by road; a separate treatment plant specifically for wineries; on site schemes for the treatment on the wineries' properties; or the development of wetlands projects for the winery waste. The committee was told that the agency was considering all options and would put forward a proposal when it had evaluated the options before it.

The committee is concerned that an effective scheme is developed for the disposal of winery waste in the Adelaide Hills in view of the continued interest in and expansion of the local wine industry, whether or not this may involve the Heathfield plant. In addition, section 12C of the Parliamentary Committees Act provisions are the grounds upon which the committee recommends the proposed work.

The Hon. R.B. SUCH (Fisher): I am delighted that this project appears to be close at hand. Having grown up near and experienced the Sturt River many years ago, I know that it will be a great improvement to that river and, obviously, to the Patawalonga, which is connected to the Sturt River. The material that has been going into the Sturt River for quite a while from the sewage treatment works has had a deleterious effect. Trout used to be quite frequently seen and caught in the Sturt River when I was a lad. Sadly, I am not aware of trout existing in that river any more as a result of pollution not just from sewage upstream but also from excessive extraction of water adjacent to the Sturt River.

The residents of the lower reaches of the river, which flows through Flagstaff Hill, will be delighted with this proposal. I take note of the comments of the member for Hammond that, if wineries expand in the hills, this project would need to be expanded, and I trust that that issue will not be overlooked. Putting that aside for one moment, I believe that it is, nevertheless, a great step forward. It is something for which I have argued for some time, and I have raised the matter on many occasions. It has had quite a lot of publicity in the Hills Valley *Messenger* newspaper and I am delighted that, at long last, it looks as though the Heathfield Wastewater Treatment Plant Environment Improvement Program and Upgrade will happen. I commend the members of the Public Works Committee, the minister and the government for getting this to a point where we will see that project implemented.

Ms THOMPSON secured the adjournment of the debate.

SELECT COMMITTEE ON GROUNDWATER RESOURCES IN THE SOUTH-EAST

The Hon. M.R. BUCKBY (Minister for Education and Children's Services): By leave, I move:

That the committee have leave to sit during the sitting of the House today.

Motion carried.

STATUTES AMENDMENT (BOOKMAKERS) BILL

The Hon. M.R. BUCKBY (Minister for Education and Children's Services) obtained leave and introduced a bill for an act to amend the Authorised Betting Operations Act 2000 and the Racing Act 1976. Read a first time.

The Hon. M.R. BUCKBY: I move:

That standing orders be so far suspended as to enable the bill to pass through its remaining stages without delay.

The DEPUTY SPEAKER: I have counted the House and, as there is not an absolute majority of the whole number of members of the House present, ring the bells.

I have now counted the House and, as there is an absolute majority of the whole number of members of the House present, I accept the motion. Is it seconded?

An honourable member: Yes, sir.

Motion carried.

The Hon. M.R. BUCKBY: I move:

That this bill be now read a second time.

This bill addresses taxes that are instigated by the state government on bookmaker taxation arrangements. The government is aware that in other states certain levels of taxation do not apply to bookmakers, and the government was approached by the bookmaking fraternity regarding the tax and asked the government to relieve them of this tax. As I said, it has occurred in other states. In addition, the current bookmaker taxation arrangements for racing betting comprise a racing club levy equivalent to 1.4 per cent of turnover, plus additional components of state tax revenue ranging up to 0.77 per cent of turnover, depending on the location of the bookmaker and the race. Sports betting is also taxed at 1.75 per cent of turnover.

In addition, bookmakers receive a reimbursement from the state government for the amount of GST paid to the Australian Taxation Office, as the industry was advised at the time these GST reimbursement arrangements were introduced on 1 July 2000 that these arrangements were not considered to be a long-term solution.

State tax on racing betting with bookmakers is to be fully abolished. Further, tax on sports betting with bookmakers is to be abolished other than for the 0.25 per cent of turnover on sports bets from persons outside Australia. Bookmaker GST

reimbursements are also to be abolished under this bill. Under the revised arrangements the only state tax or reimbursement for bookmakers will be the 0.25 per cent of turnover on sports bets from persons outside Australia. The net result of these changes is estimated to have a negative net impact on the state budget of some $35 000 per annum.

The revised taxation structure provides South Australian bookmakers with rates equivalent to the benchmark rates set by Victoria with respect to racing betting, and the Northern Territory with respect to sports betting. It will provide the opportunity for bookmakers to compete effectively in the increasingly competitive national sports betting market. The South Australian Bookmakers' League supports these revised arrangements.

In concert with amending the taxation arrangements, the racing club levy and prescribed fees (better known in the industry as stand fees) are to be removed from the legislation in favour of negotiated arrangements between the SA Bookmakers' League and the racing industry.

While the racing club levy, that is, 1.4 per cent of turnover, and stand fees are currently established under the act, they are already largely a commercial matter between the bookmakers and the racing codes. The South Australian Bookmakers' League and the racing industry have recently been negotiating a revised commercial arrangement, and I understand the parties have agreed to replace the current levy and fee arrangement with an all-encompassing levy of 0.9 per cent of turnover.

Consistent with that, the parties have agreed that the legislative provisions should be removed from the act. This will enable future negotiations to occur in a normal commercial manner. These amendments demonstrate the government's commitment to provide a competitive taxation environment in the state and to support the bookmakers and racing industry in developing their commercial relationship. I commend the bill to the House.

Mr WRIGHT (Lee): The opposition is pleased to support this bill. We have raised an issue for some time in respect of a component of this bill, and I will return to that as I go through the content of the bill. There are three major elements to this bill: first, the abolition of bookmaker taxation other than 0.25 per cent of turnover on sports bets outside Australia; secondly, the abolition of GST reimbursement for bookmakers; and, thirdly, the removal of the racing club levy and stand fees. To a degree, each of those are related, although they could also stand by themselves. It is fair to say they are related and there is a bit of a trade-off as we go through the elements of these.

The abolition of the turnover tax to bring South Australia into line with Victoria for horse betting and with the Northern Territory for sports betting, is a very positive outcome. I raised this issue with the Minister for Racing, the Hon. Iain Evans, when I wrote to him on 29 August 2000—over 12 months ago. Following representation from then sports bookmaker Mr John Thornton, I took up his case with the minister because the anomaly that existed with regard to the percentage of 1.75 per cent, which operated here in South Australia, was simply too stark a difference from what existed in other states, and it put Mr Thornton, or any other bookmaker, at a distinct disadvantage when one compared what he paid to what was being paid in the Northern Territory, which, by and large, has been recognised as the sports betting capital in Australia.

We took up this issue for Mr Thornton. I understand that another sports bookmaker, Mr Seal, is now operating in South Australia. To the best of my knowledge, two sports bookmakers are operating in South Australia. At the very least, they need to be in a similar competitive position to operate, whether in the Northern Territory or any other state. While representing Mr Thornton, among other things, I wrote to the Hon. Iain Evans over 12 months ago as follows:

> As you would be aware, the turnover tax paid for sports betting in South Australia is 1.75 per cent whereas in most other states around Australia it is 0.5 per cent. One begs the answers to the following questions:
> (1) why is there so much difference;
> (2) how can one compete in such an environment; and
> (3) what are the implications of this in light of the principles of national competition policy?
>
> Telephone betting is an important component of Mr Thornton's Sports-Bet business and he has advised me that his costs for telephone betting are another 1 per cent (on top of the 1.75 per cent).

That is an unrelated issue to a degree, but it is an additional component to his costs. The letter continues:

> Once again, it disadvantages any sports bet operator in South Australia, but it also sees money leave South Australia; money which could have been invested and tax [which could have been] paid in South Australia—

I am talking about the 1.75 per cent of turnover—

> Sports betting relies on percentages, often small percentages, and information put before me would suggest that South Australia cannot compete with its interstate counterparts. South Australian business must operate in a climate without an economic disadvantage, and these three specific areas need your urgent attention.

I welcome this move by the government. It is about 12 months late but, nonetheless, I give full credit to the minister today, and his counterpart the Treasurer in another place, for bringing this before us. It is long overdue but it is better late than never. We see this as a positive step.

I said earlier that these issues were interrelated, and one should make the point that the turnover tax is mainly money that has been going to racing clubs as a part of a racing club levy. Although the 1.75 per cent is the tax that is paid, the great majority of that, some 1.4 per cent, goes to the racing clubs as a levy, and the residual goes to the state government in the form of taxation.

The minister probably made this point, but these measures introduced today have a very small effect on revenue—some $35 000—so we are not talking about a significant loss of a taxpayer base to the South Australian taxpayers because the majority of that money, whether it be for sports betting or horse betting, is taxed at different levels. Sports betting is 1.75 per cent, but horseracing in the metropolitan area for races within South Australia is 1.57 per cent; for interstate races 2.17 per cent; for the country area 1.40 per cent; and for interstate races in the country 1.97 per cent. In each of those categories, 1.4 per cent goes direct to the racing clubs and the residual goes in taxation.

I welcome the first part of this measure where the government has chosen to reduce the turnover tax. In fact, it has removed any state tax when it comes to betting. The only tax that will be paid in respect of turnover is the .25 per cent of turnover on sports bets outside Australia, because they do not contain a GST component. I think this is a welcome, positive move, and the government deserves to be acknowledged for it. However, as I said, these are related because, as part of that, rather than the statutes covering this racing club levy, there will now be a commercial arrangement to take place between the racing industry and the bookmakers. Provided this bill goes through the parliament, rather than it

being covered by the statutes, it will be covered by a commercial arrangement between the racing clubs and the bookmakers.

I have some correspondence, to which I will refer in a moment, to the effect that they have worked up an arrangement whereby the levy will be .9 per cent. This is a new commercial arrangement which seems to make sense following the corporatisation of the racing industry. The racing industry has strongly supported parts of it in days gone by, so it will be a natural follow-on. This arrangement has been struck with both the racing industry and the bookmakers. I should make the point, because it is important, that this new commercial arrangement will have no government involvement—it will not be covered by statute—and I am advised by Treasury that this new figure that has been struck of .9 per cent (compared with the current 1.4 per cent) will come at a cost to racing clubs of approximately $500 000 per annum.

The advice that has been provided to me—and I have no reason to dispute it—comes from Mr John Cameron, who is defined in this letter as the Company Secretary of RSA (Racing Industry of South Australia). In a letter to Mr David Reynolds, Manager, Revenue, Economics Branch, Department of Treasury and Finance, he states:

> On behalf of the three codes of the Racing Industry of SA (RSA) I advise you that following extensive consultation, the industry and the SA Bookmakers League have arrived at an agreed position on the matter of a levy to be paid to the industry. This levy will be 0.9 per cent of all turnover.
>
> RSA agreed to support the removal from the Racing Act 1976 and the Authorised Betting Operations Act all references to taxation paid by bookmakers to Treasury and distributed to the industry as well as reference to the payment by bookmakers of a prescribed fee for the privilege of betting when issued with a permit to do so.
>
> Racing SA, on behalf of the three codes, will enter into a commercial arrangement with the SA Bookmakers League on the agreed terms as soon as is possible.
>
> We look forward to a swift outcome to the changes to the legislation that will affect these changes.

So, there it is: Mr John Cameron on behalf of Racing SA (the body which replaced the Racing Codes Chairmen's Group) has signed off on behalf of the clubs saying that they agree to this new figure despite the fact that they will lose $500 000. So be it. This is obviously a negotiation that they have made with the bookmakers.

However, I thought that I might do a bit of homework, because in days gone by—with the sale of the TAB and the corporatisation of the racing industry—I am a little used to certain people signing off on behalf of the racing industry. Despite the fact that Mr Cameron refers to extensive consultation with the racing industry, I thought I would do a little bit of homework and back checking. It will not surprise members that, as I worked through the various codes and some of the racing clubs in the country, I found that the situation was not quite the way in which it is explained in this letter. I hasten to add that this is no fault of the government.

I am advised by country clubs that this extensive consultation is not quite the way in which it is described by Mr Cameron in his letter to the Manager, Revenue, Economics Branch, Department of Treasury and Finance. In fact, I am advised as late as today by country racing clubs that they were told by way of correspondence on 25 October of a fait accompli with regard to this new figure of .9 per cent. Of course, country clubs were a little perturbed by this because all of a sudden they were to lose a pro rata component of this $500 000 which will be lost to racing clubs because of this new levy, and they were not necessarily happy with that.

Following that, a second letter went out to racing clubs on 29 October to canvass their views. I think it is important that we are mindful of this. This may not be a huge sum of money, but members and the former racing minister would know full well that racing clubs do it tough. These negotiations took place between TRSA and the thoroughbred part of the industry (which represents about 70 per cent; it used to be 73 per cent but it has gone down a little—make your own argument about that) and I have also been advised by other codes that they were presented with a fait accompli as well.

I am sure that members on both sides would concur—I know that the minister would, and the Deputy Leader of the Opposition is very concerned about the Gawler racing club—that we must always be mindful of the impact upon country racing clubs. Although country racing clubs will lose only a small percentage of this $500 000, it is something with which they will have to deal.

To put this into perspective so that members have an understanding of what that figure might mean, in fairness, 68 per cent of that 70 per cent of $500 000 (I am talking about thoroughbreds only) will be picked up by the SAJC because it has the lion's share of thoroughbreds. I think it is only fair that I make that point, because it is a point worth making. Going back to the debate on the corporatisation of the racing industry, at that time we wanted to point out some of our concerns with regard to that matter. Let us never forget the importance and significance of country racing clubs, because they play a vital role in South Australian racing and we do not want the TRSA, the SAJC, or anyone for that matter, running roughshod over country racing clubs.

I have been advised a little differently over the past 24 hours about this extensive consultation to which Mr Cameron refers in his letter of 16 October to the Economics Branch of the Department of Treasury and Finance. I have made my point. Nonetheless, the opposition supports this bill. The government has brought forward a worthwhile bill which deserves support and, if it is the case that the racing industry, as part of the big picture, is prepared to come up with a new commercial arrangement with the Bookmakers League and forfeit some of the $500 000, so be it, because we also know that bookmakers, who are another important vital part of the industry, have been doing it tough for some time. No longer is that the case—maybe it never was—but there was always a feeling in the racing industry (I think more so 20 years ago) that bookmakers turned up, put up their stands, operated them, and walked out with the money.

It is no longer that type of industry. It is far more competitive. I can see and understand that this new commercial arrangement that has been negotiated between the racing industry and the Bookmakers League works both ways. I have said before in this House, and in fact in my maiden speech, and on a number of occasions, that it is very important that here in Australia we do all we can to make sure that we keep bookmakers a part of the industry. It adds to the flavour and to what we have in racing in Australia. I do not know what the numbers are, but I would suggest that it would be about 40. The member for Bragg may know. It may be a few more. But I well remember the day 15 or 20 years ago where we had probably over 300 licensed bookmakers or thereabouts. I think we are down to 40 or 50. So it is a very difficult and delicate industry.

On balance, we support that new commercial arrangement, but I would hope that, with the corporatisation of the racing industry, the country racing clubs and the smaller codes really do not get left out as these negotiations and this so-called

extensive consultation takes place, because it has not necessarily been quite like that.

I might also say that the other part of this bill, which seems to be a sensible and practical part that the government has put forward, relates to the GST reimbursement for bookmakers. That is a bit of a trade-off, as I understand it. The bookmakers are getting something out of this, which I have just talked about, that reduction in the levy that they will pay and, as a trade-off, as an offsetting reduction, they will no longer be getting the reimbursement that they have been getting from the Treasury with respect to the GST. So they are playing their part in respect to that. I think that this bill that comes before us is a good bill from the government and we certainly welcome it.

I will be brief in respect of this, although the bill is now open and one has a little bit of latitude, but I foreshadow and put on notice to the racing industry a couple of issues in respect to the future that we may be looking at next year under a Labor government, if we are fortunate enough to come into government. The Australian journalist Patrick Smith I think has raised a very important issue for the racing industry. This is an issue which I have felt very dearly about for a long, long time. I notice the member for Bragg nodding his head, and he has a strong appreciation of the racing industry. But for far too long jockeys have been the unsung heroes of the racing industry. I think to a degree they have been exploited.

I think for a whole range of reasons the way they have been treated is really not the way we in Australia would expect or welcome an employee to be treated. I think there has been a feeling both within the racing industry and beyond it that they are not your normal employee. Well, if they are not a normal employee I am not so sure what they are. I do not know what the percentage would be, but it would be a small number of people, certainly in South Australia, who would make a good living out of the profession. Most of them would battle and struggle and have great difficulty. It would be similar Australia-wide, although, of course, when you go to Victoria and New South Wales, two of the biggest areas of racing in Australia, the number would be bigger, but perhaps as a percentage it would not be that much different.

But I would foreshadow and hope that the industry would take this on board and that this parliament would look at this issue, irrespective of who is in power next year. This is an issue which I think needs to be addressed and it is something that I would hope that the industry does take on board. I congratulate Patrick Smith for bringing this to the attention of all racing lovers and followers during the Victorian Melbourne Cup Carnival. He has made a number of good points in his article, but I will just highlight a couple. He says that, as a result of a study that has been generated in Victoria by the Victorian racing minister, three key recommendations have been made.

The industry must ensure there is a properly structured and supported body to represent the jockeys, that there be adequate pension and superannuation provisions and that jockeys be given access to financial counselling. He also goes on to say, 'It is staggering to think all this was not in place as a matter of course,' and how right he is. It is not something that we can be proud of. He goes on further to say:

> Hulls has helped put in place a new board of governance to run racing in Victoria. He has let it be known that its make up is not what he wanted, but it is this board that must act on the recommendations of the Hulls inspired support. The minister will want swift, effective and practical action. One thing is for certain, Hulls has made it clear he will not allow jockeys to be racing's whipping boys any longer.

I also congratulate the Victorian racing minister for bringing this to the attention of the industry. This is not something that is simply unique to Victoria. This is an issue Australia-wide and it is an issue that needs to be addressed by the racing industry right across the board, right across Australia, and I would invite the racing industry in South Australia to take this issue on board.

I have one last thing that I would like to mention quickly and briefly. One cannot let go the opportunity while we are talking about racing to highlight to the House the current situation with Teletrak. This is something that certainly myself and the member for Bragg both argued. We put forward very articulate cases to this chamber highlighting that Teletrak was not something that deserved the support of this parliament, was not something that we saw as being good for racing and not something ultimately that we saw could be successful.

There is no great credit in now standing before you and saying that Teletrak has gone belly up. It is no great surprise to people in the industry, or people outside the industry. This has had a chequered career from day one. This is something that South Australia could well have done without. This is something that the Minister for Racing, the Hon. Iain Evans, was determined to do. He was determined to bring a bill before this parliament, which should never have come before this parliament. That bill did this parliament no credit, that bill did the racing industry no credit, and it is no credit to him, nor to anyone, that as a result of the negotiations that took place over a period of time with regard to Teletrak and what its tentacles would be that it has now gone belly up.

As a result of that, we have councils around South Australia, particularly in the Riverland, which are worst affected, and also in the South-East, an area represented by a couple of members in this House who would be aware that the Wattle Range council, I think it was, invested money into TeleTrak. The Port Augusta council, as I understand it, also invested money into TeleTrak. Contractors have not been paid. It is a sad situation that we have had councils being encouraged to enter a commercial arrangement, backed up by legislation of this parliament, to put in money to support a concept which never deserved our support and which never deserved the financial support that it has received in South Australia. The collapse of TeleTrak is something of which all members in this House should be mindful in the future when they deal with important issues.

With respect to this bill, the government deserves acknowledgment, credit and some acclamation for bringing before us a good, practical and sensible bill which will be effective and will support people in the racing industry. If it is good for people in the racing industry, it is good for the racing industry and, if it is good for the racing industry, we support it.

The Hon. G.A. INGERSON (Bragg): I rise to support the government in this very important bill for the racing industry. It is a bill which recognises changing times and, as a consequence, it is a very practical move on behalf of government in recognising that bookmakers in both the racing industry and the sports betting industry need some help short term and, hopefully, help that will give them long-term survival opportunities.

I have had a special relationship with the racing industry over a long period of time. Whilst there have been some black

days, there have been far more blue horizons as far as I am concerned. I think this move by the government for the first time recognises in this House that we need to have bookmakers on the course in the long term. As I said, it is a recognition that it has to be driven economically, and that is a very significant point that the government has made.

The minister, in his second reading explanation, pointed out clearly that it involves a small loss of revenue for government, some $35 000, but a very significant reduction in costs for bookmakers, and also a recognition, and a significant acceptance, by the racing industry that it will bear some of the costs as well.

The member for Lee has clearly pointed out that it involves some payments by the industry. I remind the member for Lee that there have been some very significant benefits to the industry in relation to the sale of the TAB and, whilst I do not agree that there should be a write-off against that sum of money, there is a lot left over in terms of benefit to the industry: it is some $6 million per year, and a cost which has been commercially negotiated by the industry.

However, I do express concern at the comments of the member for Wright in relation to consultation. One of the issues for which I was criticised as minister, and for which the board of RIDA was criticised, was its lack of consultation. I now find it quite fascinating that the industry, having taken over this role itself, whilst very critical of RIDA, is now falling into the same trap.

I hope, with the comments made by the member for Lee and by me, that the boards, whilst they are now commercial, will recognise that, if they are going to move into the future, they have to take the industry with them. What that means is that a range of people who have differing views will have to be brought around the table where consultation will take place and an answer arrived at. We were trying to do that but we got into a bit of hassle along the way. I am concerned if what the member for Lee said is correct—I am not questioning that—because that is a major issue.

One of the other things that is important in this whole exercise is that the industry has recognised that there is a need for it to negotiate commercial agreements, and bookmakers and the industry have now worked out what they believe is a commercial arrangement. I recognise that, by taking it out of the act, they can now do that free of any government influence in the future. However, it does not remove the politics from this, because I am sure that if any future agreed arrangement, whether it is with the bookmakers or the TAB, does become a bit strained it will become political again. I hope that does not occur.

The member for Lee also mentioned country clubs and, clearly, they are critical in the survival of the racing industry. I would like to make a couple of comments regarding critical observations I have made when travelling around the country areas when I was minister and also since then. The industry does have to change and it does have to recognise that some of its long-held traditional country programs may not be able to stack up, and they may have to look at other ways of achieving the same end point. I see that when I go to the Balaklava club, to the Vignerons Cup at Penola, and to Mount Gambier for their cup. Those clubs have recognised that special occasions can occur at the same time as running smaller, but competitive, meetings on other days. Other clubs have not recognised this and there will need to be some cooperation.

I do not like using the word 'rationalisation' but I think that there needs to be some cooperation between country towns in reasonably close proximity to perhaps run two or three clubs with combined committees. These are just views that I might have, and I am not necessarily saying that they should do this; but they should at least have a look at it and not stand back and say, 'Nothing has to happen', and then, if nothing does happen, complain. The world is moving rapidly in the racing industry, as it is in any other industry. Country racing, which is vital, needs to recognise that it has to be part of change, and it needs to be vital if it is going to influence the direction of the industry in the medium to long term.

Unfortunately, South Australian racing is not at the level that it was when I was a young person but there is no reason why it cannot be a strong industry. It employs in excess of 3000 full-time equivalent people, which in itself makes it a very significant industry. There is no reason why it cannot grow, but it has to be run commercially and it has to be run in a practical way. I believe that there are signs in the industry, albeit small ones, that it is recognising that a new direction needs to be cast. One of the things that I hope will occur is that there will be a range of new people coming into the industry in the next five to 10 years and that those new people will be encouraged to be part of the changing face of the industry and to go forward in the future.

The other issue in this bill relates to sports betting. There is absolutely no doubt that the biggest potential growth in betting in our community will be in sports betting over the next five to 10 years. The fact that the government has recognised this and reduced down to, I think, 0.25 per cent the take from sports betting will mean a very significant boost to at least two bookmakers—one, in particular, staying in South Australia and the other having an opportunity to expand in this vitally important area. At the moment, the TAB is dominating a large part of this area but, with bookmakers being able to offer telephone betting and general betting sheets, I think that we will see them playing a vital role in sports betting. As I said, it is the single biggest opportunity for growth in betting in this state, and in this country, and it will grow at a much more significant rate than the traditional racing betting.

I was also interested in the comments made by the member for Lee in relation to Patrick Smith's article. Clearly, the biggest issue there, in relation to the jockeys, is whether they are employees or contract workers. That will be the biggest decision that needs to be made by the industry. If you are being paid a percentage of earnings of the particular race that you are riding in versus being paid a salary, you are, most often, considered to be a contractor. Jockeys are paid both: they are paid a losing ride fee, and if they win they get a percentage. Obviously, this issue needs to be resolved.

There is no doubt that there are some very significant industrial issues that need to be sorted out: the superannuation issue is clearly one; workers' compensation is a vital issue that, in my view, has not been properly worked out by the racing industry; and, finally, at the end of the day, it comes down to what the industry can afford in recognising this important change that may need to occur in industrial relations.

I noted with interest the comments by the member for Lee in relation to Teletrack. I had a very special interest in Teletrack some four or five years ago when I was the minister. I attended a meeting in the Riverland which was a fairly heated meeting. I expressed a view that the government had and that view was supported some time later in a formal report by RIDA which I read to this parliament. We then passed legislation to implement those provisions. I have never

been opposed to anybody's right to set up a corporation and make money within a corporate framework, and neither was I in this instance.

Mr Clarke: Tell us what you think about TeleTrak.

The Hon. G.A. INGERSON: I am talking about that now. What I was concerned about, and this has not changed—and unfortunately I have been proven to be right, although, in this case, it is a sad instance—is that a fundamental business plan that made any sense was never put to government, or to anybody else, when I was minister. I had a very strong view (and I still have it) that there are some very significant moral obligations that one has when setting up a business in the community. The fundamental moral obligation that you have is that you are selling a product to the community that is legitimate and that it has the right to be successful—but it has to be legitimate, and with that go a few fundamental rules. The first one is that, if you go out and sell something to the public, then you have to be fair dinkum that you are going to do it.

In my view, there was never a fair dinkum resolve to go out and do it, and that is tragic. Other members in this place will disagree with that, as will other people in the community, particularly the Riverland. A large amount of information was put out about the buyer having to beware. I remember writing to directly to all councils in the state and saying, 'Don't come back to the government and ask for a subsidy if you go down this track. In our view you need to be aware that you are making commercial decisions, and if you make them you are not to come back to the government if they turn sour.' That was the general thrust of the letter that I wrote to all councils.

What upsets me most is the fact that people in the Riverland got conned in a huge way, because they were told that there was an opportunity. However, it turned out to be a dream and not reality. That is what concerned me most. It was a public presentation by a group of entrepreneurs who believed that they had an opportunity, but I do not think they ever really did. I have said this before in this place, publicly and I will say it again now: I am disappointed and disturbed that a whole range of ordinary South Australians have been led up the garden path by a group of crooks. I say that with much thought. I have not said that publicly before. In all my political life in this place, this is the biggest single scam I have seen carried out on the South Australian community. That is disappointing, and it could have been avoided had a lot more homework been done.

By way of example, I have a little to do with the breeding side of the racing industry. I understand that in the first prospectus you needed 400 to 500 horses to make this work in a practical sense on one of the tracks. That means that you need about 750 mares. For it to be seen as a racing industry with some legitimacy, you need to spend at least $20 000 per mare to get a decent outcome from the progeny.

If you multiply that out, you see that we are talking between $16 million and $17 million in new investment in South Australia, just in the mares alone. That has to be done every year, year after year. That does not include the $10 000 to $15 000 minimum service fees that you must incur to send a stallion to those mares. It does not include any of that. It was absolute bloody nonsense right from the start. It concerns me that that dream which specifically involved the Riverland never had a chance to get off the ground.

A whole range of very good genuine people in the Riverland got conned because they believed that it was a huge opportunity for them. The area was experiencing difficulties at the time, and it was a welcome opportunity for someone to come in and say, 'Here's a great future for you; it is the greatest single opportunity since sliced bread.' It all fell into place. However, the problem is that some silly old minister decided to stand up and say, 'Hang on! Before you go down this track you ought to have a look at the opportunity.' A report written by Peter Brain was used to justify the project. However, when I pulled Peter over regarding it, he said, 'Graham, this has no chance in hell.' That never got published because it did not help the case. I am concerned that that happened. I am disappointed that a lot of people got hurt, and I hope to hell that those who are responsible for this cop every bit of the law. As I said earlier, this is the biggest single scam that has occurred in my political career. I am genuinely sorry that I was not able to stop it happening. Unfortunately, I was not able to do that.

With the short time I have at my disposal, I would like to congratulate the government in this area because it is a forward move by it to recognise the need for bookmakers in the future. We need to have them on the track and to be part of sports betting as it grows into a much bigger industry. Some of that money will feed back racing industry, in which I have a special interest. As those people are also bookmakers on the track, if they survive they will be of long-term benefit to the racing industry. I congratulate the government, and the minister and the Treasurer in being able to negotiate this deal with the bookmakers. I also congratulate the bookmakers and the racing industry, who will now have to work in commercial partnerships together. When I get out of this place, I look forward to playing a significant role in the development of the racing industry.

Mr CLARKE (Ross Smith): I will take up a few moments of the time of the House and elaborate a little on what the member for Lee has said, which more than adequately covers the Labor Party's position on this bill. I particularly want to refer to a former constituent of mine who was also referred to by the member for Lee, namely, Mr John Thornton. For a number of years he was the only licensed bookmaker to take bets with respect to sporting events in South Australia.

Unfortunately, my personal assistant is not at the office today, and I could not find the file on Mr Thornton from when he first came to see me. I could not find the file because I do not understand the filing system. From memory, he first came to see me almost two years ago. At that time he lived in Clearview. He subsequently moved out of my electorate. When he came to see me, in about the middle of last year, Mr Thornton said, 'Ralph, I am being absolutely butchered by the unfair tax regime that the government has applied to my turnover tax in South Australia compared to those of my competitors in every other state and, in particular, with my two main competitors in the Northern Territory and also in Victoria.'

I made representations to the Minister for Racing and the government generally on his behalf to try to get them to recognise that it was an impossibility for him to be able to compete on an equitable basis, given the sort of taxation regime that was so heavily against him compared to those of his competitors. His being disadvantaged is not something that had come about recently; it had occurred progressively over a series of many months. As most members here would be aware, bookmakers have had it tough in the racing industry over a number of years.

The racing industry would be much poorer if we did not have the colour and dash of our bookmakers. It is also

important that people who wish to bet on sporting events are be able to do it, and we would want to keep their money here in South Australia and not let it move interstate.

All I got back from the minister of the time was a reply to the effect, 'We understand your concerns; we're looking at it.' In November 2001, at last something is being done. I am grateful for that, and I am sure Mr Thornton is very grateful for it. However, this should have happened many months ago. It does not require Einstein to work out that, if the taxation regime applicable to Mr Thornton (and later another person joined him—a bookmaker who can take sporting bets) continued, he could not continue to exist. I think that the government has been more than tardy.

Mr Wright interjecting:

Mr CLARKE: The member for Lee reminds me that he also took up this matter back in late August. I might have beaten him by a couple of months. But I recommended that Mr Thornton go and see the member for Lee on this issue, and he has also been following it through. I do not want to go into the committee stage, but I would like the minister to try, perhaps in his reply to the second reading contributions, to give an answer to Mr Thornton as to why it has taken the government so long to act on what is patently obvious—that, if action was not taken, you would drive him out of business. It was patently obvious that this amendment could have been put up, in terms of the taxation regime, many months ago.

The other point to which I would like the minister to give some consideration is this. At the time of the holding of the Olympics in Australia last year (the greatest sporting event in the world), to add insult to injury, in the sense of having to pay the highest taxation regime of his competitors throughout Australia, Mr Thornton was denied the opportunity of being able to take bets on events in the Olympics.

The Hon. G.A. Ingerson interjecting:

Mr CLARKE: The member for Bragg says, 'So was everyone in Australia.' I wish that was the case. Unfortunately, no other state apart from New South Wales complied with the request of SOCOG (it was either SOCOG or the Australian Olympic Committee—it must have been SOCOG, I think; I am working on memory now), which had told all the sporting ministers—in keeping with, I guess, the traditions of the Olympics—that it did not want bets to be taken on sporting events. As I understand it, the various racing ministers placed their hand on their heart and said 'Certainly', and the only ones who honoured their agreements were South Australia and New South Wales. I am not asking South Australia to dishonour its reputation, but I would have thought that it would have a reasonable claim to say to SOCOG, 'We were going to honour our word. New South Wales has honoured its word, but no-one else has, and we cannot place our sports bets bookmakers at a commercial disadvantage.'

What happened to Mr Thornton (with his diminishing number of customers at that time, who were being attracted elsewhere because he could not offer the same odds due to the higher taxation regime here in South Australia compared to elsewhere), to add insult to injury—to go up and give him a good kick in the guts—was that we would not allow him to take bets on the Olympics, because we were honouring our word to SOCOG. So, his loyal band of customers, who wanted to make bets on the Olympics, were then getting in touch with Centrebet in Victoria and elsewhere in Australia, which did allow betting on the Olympic Games. As a consequence, the cycle was broken, along with the habit of his loyal customers coming every week for their weekly bets, or whatever it might be, on sporting events, not just for a period of a couple of days but for the whole three weeks of the Olympics—the lead-up to it, the Paralympics and the like. His customers got out of the habit of betting with him on major sporting events and went elsewhere.

I ask the minister if he would please try to explain to me and to Mr Thornton why South Australia insisted on honouring its word, so to speak, to SOCOG, when every other state except New South Wales dishonoured its word. I am not saying that we should then say, 'Everyone has dishonoured it, so we should jump into bed with them.' However, I think that we could legitimately have gone along to SOCOG and said, 'We wanted to insist on maintaining our undertaking, but it is obvious that it cannot be maintained. It is being breached everywhere else, and we cannot have business people in our state operating at such a disadvantage, which could send them to the wall.'

I commend the legislation, but it is far too tardy. I commend Mr Thornton for his perseverance in this matter, and trust that he has been able to survive sufficiently so that he can gain the benefit of this long awaited relief. I also commend the shadow minister for the work that he has done in this area.

The Hon. M.R. BUCKBY (Minister for Education and Children's Services): I thank all members for their contributions to the bill. In terms of the comments of the member for Ross Smith, I am not sure why this bill has taken the time that it has to come into the House. I assume that the Treasurer had his reasons, but I cannot give the honourable member an answer to that.

Mr Clarke: Can you get it for me?

The Hon. M.R. BUCKBY: I will seek an explanation from the Treasurer for the honourable member. With respect to the Olympics, I assume that, having given our word that we would not become involved, we stuck to our word and to the letter of the law. I understand what the member is saying: when all other states are breaching that agreement, the bookmakers here are at a disadvantage. I would assume that the Minister for Recreation, Sport and Racing decided that that is something that South Australia would not do. This is a good bill for the bookmaking industry, and I thank—

Mr Clarke: Can you ask the minister for racing?

The Hon. M.R. BUCKBY: I will seek an answer for the honourable member from the minister for racing. I thank both sides of the House for their support of the bill.

Bill read a second time and taken through its remaining stages.

STATUTES AMENDMENT (MOBIL OIL REFINERIES) BILL

Second reading.

The Hon. M.R. BUCKBY (Minister for Education and Children's Services): I move:

That this bill be now read a second time.

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

Leave granted.

The objective of the *Statutes Amendment (Mobil Oil Refineries) Bill 2000* is to amend the State Government's Indenture Agreements with Mobil Refining Australia Ltd laid down in the *Oil Refinery (Hundred of Noarlunga) Indenture Act 1958* and the *Mobil Lubricating Oil Refinery (Indenture) Act 1976.*

The main amendments concern arrangements for the payment of cargo service charges on crude exports and finished fuel imports across the Port Stanvac wharf, the level of rates payable to the City of Onkaparinga and the requirement for the State to provide certain facilities.

Arrangements for cargo service charges payable on the movement of petroleum products across the Port Stanvac wharf were originally negotiated and ratified in the *Oil Refinery (Hundred of Noarlunga) Indenture Act 1958*. These arrangements were extended in 1976 to apply to the lube refinery and ratified in the *Mobil Lubricating Oil Refinery (Indenture) Act, 1976*. The original rationale for these wharfage charges was to compensate the State for income foregone through the Port of Adelaide when the refinery was constructed, but also to provide an incentive to Mobil for refining in South Australia.

In 1994, the Government agreed to abolish the charges payable on imports of crude oil and condensate unloaded at Port Stanvac in return for a commitment from Mobil to a $50 million, three year investment program that has now been completed. However, a charge remains on the outward loading of crude oil and condensate from the marine facilities at Port Stanvac. Application of this charge is effectively preventing Mobil from obtaining an economic return from one of its competitive strengths, namely its deep-water facilities. This could be achieved by receiving shipments of crude in very large crude tankers and redistributing any surplus to other shallow water refineries in the region, including Altona in Victoria. However, continued application of the charge on outward movement of crude makes this scenario uneconomic.

The Government has therefore agreed that cargo service charges payable on outward loading of crude oil from the marine facilities at Port Stanvac will be abolished.

The Indentures also require payment of cargo service charges on imports of finished petroleum products unloaded by Mobil at Port Stanvac. The original intent of this charge was to discourage the use of Port Stanvac as a terminal facility and encourage local refining. However, the charge is preventing Mobil from optimising production and delivering a product mix that maximises value-added earnings for the Adelaide refinery and the State.

It is difficult to justify the retention of this import charge. Mobil owns, operates and maintains its marine facilities and does not receive any services from the State Government in return for the charges paid. Few if any other industries are required to pay what amounts to a State tax on their imports. Removal of all cargo service charges would enable Mobil to optimise its operations at Adelaide refinery and improve its overall competitiveness.

The Government has therefore agreed to also abolish cargo service charges payable on finished fuel product imports at Port Stanvac.

The Bill also amends the amount of local government rates payable to the City of Onkaparinga in respect of the refinery site and the refinery, and introduces a cap on future increases. Rates payable to the Council under the Indenture Acts are currently over $1 million per annum and this is placing Adelaide Refinery at a competitive disadvantage to other Australian refineries. Furthermore, the amount currently being charged is higher than the rates paid by other industries in the local area, and throughout the State. If the refinery was rated using the standard formula used for other City of Onkaparinga properties, substantially lower rates would be payable.

The current rating formula was negotiated as part of the 1976 Indenture Act, to facilitate the Council approvals required to establish the lubricating refinery. This was at a time of significantly greater oil industry profitability. The cost penalty that Mobil is presently incurring is not sustainable in the current more competitive environment.

The new amounts as set out in the Bill represent the culmination of a long process of consultation and negotiation during which a number of options were considered for arriving at a fairer and more equitable level of rates. At the end of the day the Government had to find a compromise that all parties could live with. The Government believes that the total rates package which also includes the commitment of substantial new funding to the region for community projects and the provision of Government funded staff to work on development issues important to the local Onkaparinga community and valued at around $600 000 over three years, represents such a compromise. Both Mobil and the Council have had to give considerable ground on what were their preferred positions.

The complete removal of cargo service charges with respect to the Port Stanvac refinery and the negotiated reduction in local government rates further highlights the Government's commitment to create a competitive business climate in South Australia.

In return for the agreed changes to cargo services charges and local government rating, Mobil has agreed to waive the requirement in the current Indentures for the State to provide certain facilities, including the provision and maintenance of a railway connecting Adelaide Refinery to the South Australian railway system and obligations to supply electricity.

Mobil also made a commitment to commission major improvement studies of Adelaide Refinery, involving local and international experts, targeting break-through opportunities. A number of projects have been implemented as a result of this commitment.

The new Indenture Agreements will be greatly beneficial to the State. South Australian industrial activity is likely to be increased by added ship handling and storage activities at Port Stanvac. The changes will also contribute to an improvement in the national and international competitiveness of Adelaide Refinery, thus improving its long-term viability and economic contribution to the State.

Explanation of Clauses

PART 1

PRELIMINARY

Clause 1: Short title

Clause 2: Interpretation

These clauses are formal.

PART 2

AMENDMENT OF THE OIL REFINERY (HUNDRED OF NOARLUNGA) INDENTURE ACT 1958

Clause 3: Amendment of s. 5—Local government rates

This clause amends the original Indenture Act by setting out a revised set of figures for the amounts payable by Mobil to Onkaparinga Council in lieu of council rates in respect of the 2000-01 financial year and subsequent years for the fuels refinery. From the 2004-05 financial year onwards, the amount will be calculated using the existing formula, but cannot exceed the amount payable in the previous financial year as increased by CPI (Adelaide) increases (if any) in the 12 months ending on 31 March in that financial year.

Clause 4: Amendment of the Indenture

This clause amends the original Indenture by firstly striking out clause 5, being the clause that sets our the State's obligations to provide certain housing, road, rail, water and electricity services and facilities, and secondly, by striking out those provisions that require Mobil to pay the State certain service charges on the loading and unloading of fuel at Port Stanvac.

PART 3

AMENDMENT OF MOBIL LUBRICATING OIL REFINERY (INDENTURE) ACT 1976

Clause 5: Amendment of s. 5—Local government rates

This clause amends the council rates section of the 1976 Indenture Act for the lube refinery in the same way as set out in clause 3 of the Bill in respect of the fuels refinery.

Mr WRIGHT secured the adjournment of the debate

CRIMINAL LAW CONSOLIDATION (OFFENCES OF DISHONESTY) AMENDMENT BILL

Second reading.

The Hon. M.K. BRINDAL (Minister for Water Resources): I move:

That this bill be now read a second time.

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

Leave granted.

This Bill is the result of a review of the criminal law in the area of criminal offences punishing dishonesty in its various forms. The review is based on the earlier comprehensive work of the Model Criminal Code Officers Committee (MCCOC), a committee reporting to the Standing Committee of Attorneys-General which, in turn, drew largely on the substantial English experience in reform of the criminal law in this area. The MCCOC review involved substantial public consultation. Following the Model Code Report, which was published in December 1995, South Australia developed the model reflected in this Bill. The Bill (and a brief accompanying explanation) was released for public comment and the comments received have been taken into consideration.

The State of the Law in South Australia

South Australian criminal law on theft, fraud, receiving, forgery, blackmail, robbery, and burglary is almost entirely contained in the *Criminal Law Consolidation Act 1935*, Parts 5 and 6, sections 130-236, as largely supplemented by the common law. The offences are antiquated and inadequate for modern conditions. They are, in general terms, the offences contained in the English consolidating statutes of 1827, 1861 and 1916. Those consolidating statutes, in turn, brought together a wide range of diverse specific enactments that went back to the time of Henry III (*circa* 1224).

The definition of larceny at common law as the "asportation of the property of another without their consent" dates from the *Carrier's Case* of 1474.

Cheating was a common law offence from very early times, but false pretences was not made a criminal offence until 1757.

The current South Australian false pretences offence (section 195) is in very much the same form as it was originally. The distinction between obtaining by false pretences on the one hand, and larceny by a trick on the other, turns on the question whether the fraud induced the victim to intend to pass property or merely possession to the thief. This is very difficult to understand and apply, and makes no real sense at all. It is only one example of the deficiencies and unnecessary complexities of the current state of the law.

Examples could be multiplied but, in general terms, the position can be summarised by saying that South Australian law in the areas of theft, fraud, receiving, forgery, blackmail and robbery (and associated offences) is the common law, as overlaid and supplemented by numerous other enactments, of various ages, which, in many cases, are inconsistent with the general principles with which they are supposed to work. In addition, there are a large number of anomalies, such as offences directed at the forgery of currency (sections 217-220) and offences relating to the conduct of company directors (sections 189-194). Neither of these sets of offences are of any use.

South Australia has the most antiquated law in these areas in Australia. It is unnecessarily complex, difficult to understand, full of anomalies and a barrier to the effective enforcement of the law against dishonesty generally, both in this State and nationally.

In 1977, the Mitchell Committee said:

The defects of the present law are that it is unduly complex, lacks coherence in its basic elements and has not kept up to date with techniques of dishonesty. . . . [The] distinctions are difficult enough for lawyers; for laymen they are an abyss of technicality.

The law in South Australia on "secret commissions" is set out in the *Secret Commissions Prohibition Act* enacted in 1920. It came into effect on 1 January 1921. It creates a series of offences which, broadly speaking, criminalise the behaviour of giving, soliciting or receiving payment by or for an agent in order to influence a judgement or decision. Some offences deal with "secret" payments and some do not. Some offences require that the payment be made or received "corruptly" and some do not. The object of the legislation was to create a series of criminal offences dealing with corruption in both private and public life. The offences deal with variations on bribery and deceit in dealings. It differs from the more widely known criminal laws dealing with bribery and corruption in that it was primarily aimed at private, rather than public, business dealings.

In 1992, the South Australian Parliament passed the *Statutes Amendment and Repeal (Public Offences) Act 1992*. That Act contained a new regime of public sector oriented corruption offences. Although the current secret commissions legislation does cover "servants of the Crown", the 1992 offences dealing with bribery and corruption of public officers and abuse of public office deal comprehensively with the serious offences appropriate to this area. The area left untouched by the 1992 reforms is the area of corruption and bribery in private life and business.

There are a number of reasons why this Act requires an overhaul.

- The *Secret Commissions Prohibition Act* is drafted in a style common to legislation of that age, but one which makes it hard to understand and obscure to those who must conform their actions to its dictates. Further, in South Australia, its prohibitions have remained in an obscure separate Act of Parliament rather than, as in most other jurisdictions, incorporated into the mainstream of criminal legislation, be that a Criminal Code or a general Crimes Act. At the very least, therefore, the legislation requires a modern form and an integration into the general body of the criminal law.
- Much has changed since the legislation was originally passed. It overlaps with the general criminal law relating to fraud, extortion, and bribery and corruption, and the assumptions about those areas of the criminal law against which its needs were assessed and its scope defined may not be valid today. The same is true, if not more so, about the society in which it operates. The legislation needs to be reconsidered in light of the current legal and social environment in which it is intended to operate and, in particular, integrated with bribery and corruption offences.
- While the offences contained in the legislation have not been widely used since its enactment, a number of matters requiring attention has been exposed. These include, significant confusion about the meaning of the word "corruptly", a reversal of onus of proof which could be described as "draconian", a need to reconsider the applicable penalties, and a peculiar statute of limitations which bars action 6 months after the principal discovers the offence.

The Model Criminal Code and the Standing Committee of Attorneys-General

In 1991, the Standing Committee of Attorneys-General (SCAG) formed what became the Model Criminal Code Officers Committee (MCCOC) with a remit to make recommendations about a model criminal code for all Australian States and Territories. In September 1992, a special SCAG meeting on complex fraud cases requested MCCOC to give priority to theft and fraud as the first substantive chapter of such a code. This request was based in part on Recommendation 8 of the National Crime Authority's conference on white collar crime held in Melbourne in June 1992, which said:

That the various State laws and codes be revised so as to provide uniform fraud legislation as a mechanism for consistency for investigation and presentation of evidence in all Australian jurisdictions.

MCCOC took up the issues in the following way. It issued 2 discussion papers; the first, in December 1993, dealing with theft, fraud, robbery and burglary and the second, in July 1994, dealing with blackmail, forgery, bribery and secret commissions. In December 1995, it issued a Final Report which consolidated its recommendations in those areas. The Final Report was based on nation-wide submissions (including 40 written submissions) and consultations. In June 1996, MCCOC released a Discussion Paper on conspiracy to defraud followed by a Report in May 1997. Implementation of the Model Code recommendations is a matter for each Australian State and Territory to decide for itself.

It follows that the current law in South Australia in the areas of theft, fraud, receiving, forgery, blackmail, robbery, burglary and secret commissions is long overdue for reform. A complete overhaul of the law is overdue, not only on its intrinsic merits, but also in light of the recommendations of the National Crime Authority Conference and the special meeting of SCAG.

MCCOC recommended a structure for theft, fraud and related offences based on the English *Theft Act*. The *Theft Act* model was developed by the English Criminal Law Revision Committee in 1966 and enacted in England in 1968. It represents an almost entirely fresh start and is, as far as possible, expressed in simple and plain language. Its basics are offences of theft, obtaining by deception, and receiving, with the aggravated offences of robbery, forgery, burglary and blackmail. There are, in addition, supplementary offences, such as taking a motor vehicle without consent and making off without payment. Some form of the *Theft Act* model has already been enacted in Victoria, the Australian Capital Territory and the Northern Territory. The scheme thus has the advantage of having been tested in 3 Australian jurisdictions and, more substantially, in England over the past 28 years. However, the view has been taken that the drafting of the English *Theft Act* and, in consequence, the MCCOC recommended provisions, is antiquated and does not comply with the drafting style of the South Australian statute book. Consequently, an entirely fresh version adopting a substantially modified approach to the whole subject has been drafted. The result is a Bill quite different in form from other models, although its effect is very similar.

Theft

The general offence of larceny and the large number of specific offences of larceny, currently contained in sections 131-154 of the *Criminal Law Consolidation Act*, are to be replaced with a general offence of theft. Hence, specific offences of stealing trees, dogs, oysters, pigeons, and so on, will be subsumed into a general offence. Theft is defined as the taking, retaining, dealing with or disposing of property without the owner's consent dishonestly, intending a serious encroachment on the proprietary rights of the owner.

The core of the meaning of theft (and a number of other offences in the Bill) is 'dishonesty'. The Bill captures and codifies the meaning of 'dishonest' as it has been developed in the English *Theft*

Act environment. 'Dishonest' is defined as acting dishonestly according to the standards of ordinary people and knowing that one is so acting. This is a community standard of dishonest behaviour and, accordingly, will be a matter for a jury to decide in serious cases.

It may be noted that the definition of dishonesty includes the current common law defence of 'claim of right'—that is, a person will not be dishonest if he or she mistakenly believes that he or she is exercising a right. This is (and has always been) an exception to the old rule that ignorance of the law is no excuse, but the mistake must be about some legal or equitable (in the technical sense of that word) right, as opposed to moral right. It is not enough that the person thinks that there is some moral right to do what they are doing (such as defrauding rich insurance companies). They must believe that they are acting in accordance with law—for example, taking back property which the defendant honestly (but mistakenly) believes belongs by law to her.

The old offence of larceny required proof of what was known as an 'intention to permanently deprive the owner' of the object of the larceny. The meaning of this phrase became the subject of some litigation at common law. In the case of the *Theft Act* and this Bill, the law is reduced to a codified form of words, rendering the state of the law more certain. In the case of this Bill, it is referred to as 'intending a serious encroachment on an owner's proprietary rights'.

The existing law concerning theft by trustees, rules in relation to theft of real property and the rule relating to 'general deficiency' are preserved by the Bill.

In common language, a thief is someone who steals goods and a receiver is someone who pays the thief for the stolen goods. However, it has never been as simple as that. There has always been a considerable overlap between theft and receiving and that overlap has produced complex legal disputes. This has been so ever since the offence of receiving was invented by statute. Section 196 of the *Criminal Law Consolidation Act* currently says:

(2) Charges of stealing any property and of receiving that property or part of that property may be included in separate counts of the same information and those counts may be tried together.

(3) Any person or persons charged in separate counts of the same information with stealing any property and with receiving that property or part of that property may severally be found guilty either of stealing or of receiving the property or part of the property.

Under the modern approach to the area, theft is defined, in law, so widely that all receiving amounts to theft, because theft has moved away from its mediaeval roots as a crime simply involving the *taking* of possession without consent. The only reason for keeping any crime of receiving is the popular perception that there is some kind of difference between the archetypal thief and the archetypal receiver. This maintains an unnecessary complication in the law and unnecessarily complicates the task for judge and, where it is appropriate, jury. Therefore, the crime of receiving is being formally incorporated into theft and hence the *separate* offence of receiving will disappear; but, in deference to the popular conception, the name of receiving will still be referred to in the crime of theft.

Robbery

The traditional offences of robbery and aggravated robbery are retained with no substantive change. The double references to assault with intent to rob are removed, with assault with intent to rob being dealt with by section 270B of the *Criminal Law Consolidation Act*.

Money-laundering

The offence of money-laundering is transferred from its current location in the *Criminal Law Consolidation Act* to a Division dealing just with money laundering.

Fraud and Deception

A variety of offences of fraud are replaced by one general offence of deception. The effect of this is to do away with the archaic differences between the various statutory fraud offences and, also, to do away with the archaic difference between the offence of obtaining by false pretences and larceny by a trick. The offence also collapses the distinction between obtaining and attempt to obtain. No actual obtaining as a result of the deception is required.

Conspiracy to Defraud

The common law offence of conspiracy to defraud remains alone among the abolition of the rest of the common law relating to offences of dishonesty. While this decision is not in line with a determination to codify the law for reasons of access and precision, it conforms to the same decision that has been made in Victoria (and other places, notably, the UK). It really is an amorphous "fall back" offence of uncertain content designed to catch innovative dishonesty when all else fails.

There is no doubt at all that conspiracy to defraud catches conduct that goes beyond any specific offences. It exists in 2 main forms, which are not mutually exclusive. The first variant was described by an eminent judge as follows:

[A]n agreement by two or more by dishonesty to deprive a person of something which is his or to which he is or would be or might be entitled and an agreement by two or more by dishonesty to injure some proprietary right of his, suffices to constitute the offence of conspiracy to defraud.

This form of the offence does not necessarily involve deception.

The second form of the offence requires a dishonest agreement by 2 or more persons to 'defraud' another by deceiving him/her into acting contrary to his/her duty. It now appears to be settled that the person deceived need not be a public official and need not suffer any economic loss or prejudice.

Some time ago, the UK Law Commission comprehensively surveyed what it thought conspiracy to defraud covered, which was not caught by the then existing (*Theft Act*) law. The latest summary of the position is quoted immediately below. Like the Law Commission, the position taken by this Bill is that it is not currently possible to represent adequately, and in a principled manner, the scope and operation of the protean offence of conspiracy to defraud and, therefore, as a matter of practical reality, it must be retained.

. . . we have already concluded, in our conspiracy to defraud report, that we could not recommend any restrictions on the use of conspiracy to defraud 'unless and until ways can be found of preserving its practical advantages for the administration of justice'. Our view at that time was that conspiracy to defraud added substantially to the reach of the criminal law in the case of certain kinds of conduct (or planned conduct) which should in certain circumstances be criminal. We set out a number of instances of conduct within that category, some of which we have subsequently considered. One such lacuna was that it was not possible to prosecute an individual for obtaining a loan by deception. We recommended that the offence of obtaining services by deception, contrary to section 1 of the Theft Act 1978, should extend to such a case; this recommendation was repeated in our money transfers report and implemented by section 4 of the Theft (Amendment) Act 1996. Another lacuna, that of corruption not involving consideration, has been addressed in our recent report on corruption. Yet another, the unauthorised use or disclosure of confidential information, is the subject of our continuing project on the misuse of trade secrets. There are further possible lacunae that might emerge if conspiracy to defraud were abolished. We think that the proper course is to await the responses to this consultation paper and then, if it is agreed that a general offence of dishonesty would not be appropriate, consider whether the matters that we have previously considered as possible lacunae should be the subject of specific new offences. We are very conscious that some of them are highly controversial.

Forgery

The current law contains a great many specific offences of forgery which are of considerable age. They are all to be replaced with a general offence of 'dishonest dealings with documents' which extends the offence of forgery, based on the pivotal notion of dishonesty, beyond creating and using a false document to dishonestly destroying, concealing or suppressing a document where a duty (as specified in the Bill) to produce the document exists. There is also a summary offence of strict liability of possession, without lawful excuse, of an article for creating a false document or falsifying a document. It should be noted that the definition of 'document' includes electronic information.

Penalties

It is appropriate, at this point, to comment about maximum penalties. Forgery maxima provide as good an example as any. Some of the current forgery offences are punishable by life imprisonment. This is merely the result of the abolition of capital punishment (and its replacement by life imprisonment) in relation to non-homicide offences in the nineteenth century, and is absurd in the twenty first. It amounts, in its current state, to an abdication by the legislature of any role at all in indicating to the courts the level at which penalties for offences should be set. It is not only the life maxima that are absurd. Interference with a crossing on a cheque with intent to defraud carries a maximum of 14 years compared with, for example, 10 years for the indecent assault of a child under 12 years of age. Preserving the sanctity of certain, sometimes important, documents

is one thing-getting comparative social priorities right is quite another, and it is the latter that should take precedence. It is not intended by any amendments in the area of penalties to send the message to either the judiciary or the general public that the current applicable penalties in practice should be reduced. On the contrary, all that is being done is to fix applicable maxima at a realistic level when compared to other offences of comparable general gravity.

Computer and Electronic Theft/Fraud

It is notorious that the old common law system had great difficulty dealing with the new ways in which various old forms of dishonesty (and some new ones) were facilitated by the use of electronic and, more recently, computerised forms of money and money's worth. There are essentially 2 ways in which the law can be changed in order to cope with the problem. The first is to try to use definitions in order to integrate the new concepts to a general set of offences. That is the course that has been taken in relation to the new offences relating to the dishonest dealings with documents. The second method is to try to create a specific offence or specific offences to cover the field. The latter is what the Bill tries to do with general dishonesty offences. The Division is headed *Dishonest Manipulation of Machines* and the notions of manipulation and machine have been defined specifically with this in mind.

The Problem Of Appropriation

The common law of larceny and, hence, current South Australian law, requires that the offender take and move the goods before they can be stolen. This reflects the requirements of a traditional society in which a thief was seen as someone who took something. But that is inadequate. The common law had to invent the idea (and offence) of 'conversion' to cover the idea that a person could come into possession of something lawfully and then unlawfully do something with it. The *Theft Act* offence of theft, and those models derived from it, solve the problems created by this *ad hoc* approach by basing the offence on the idea of 'appropriation' which, in turn, is defined in terms of 'any assumption of the rights of the owner'.

This concept is, and was intended to be, wider than the combined offences of taking and conversion. But it, in turn, has given rise to problems. This can best be illustrated by example.

Example 1: Suppose D removes an item from the shelf of a supermarket and switches labels with another item with the intention of getting a lower price from the checkout. Is that an act of appropriation? The answer is—yes. And so it should be. What is the appropriation? The answer is—the switching of labels. It cannot be the taking of the item off the shelf, because that is not an act by way of interference with or usurpation of the rights of the owner in any way (and because, otherwise, all shopping would be appropriation—which would not be sensible, and the court so held). There is no problem under the general formula of 'assumption of the rights of the owner'. The owner has the right to affix the price to the item but D has assumed that right.

Example 2: Suppose D1, D2 and D3 go into a supermarket. D1 and D2 distract the manager while D3 takes 2 bottles of whiskey from the shelf and conceals them in her shopping bag. Is there an appropriation? The answer is—yes. Where is the appropriation? On parity of reasoning, it has to be the concealment of the bottles. It is very hard to find an exact usurpation of the rights of the owner there.

Other examples can be given. This sort of problem gave rise to some complex and confusing English court decisions on the subject. The result appears to be that the general concept of appropriation has become so wide as to have virtually no limits at all. In that case, it is reasonable to question whether it serves any useful purpose.

The solution to this problem adopted by the Bill is to return to basic concepts of taking, retaining, dealing with, or disposing of, property, including the notion of conversion, and to supplement these ways of describing theftuous offences with supplementary offences which specifically cover the margins of appropriation.

So, for example, the instance of label swapping in example 1 is dealt with by an offence of dishonest interference with merchandise. Other famous examples are included under an offence of dishonest exploitation of advantage. These offences savour of both theft and fraud and so are set out on their own.

This set of offences also contains a generalised offence of making off without payment. The current offence, which is contained in section 11 of the *Summary Offences Act 1953*, is confined to food and lodging, but there is no sound reason (but for the accidents of history) why that should be so and, indeed, there has been a consistent demand from the petrol station industry for a general offence to criminalise 'drive-offs' from petrol stations. This offence will cover that situation.

Preparatory Conduct—Going Equipped

The current law contains a series of offences labelled 'nocturnal offences'. These include the offence of being armed at night with a dangerous or offensive weapon intending to use the weapon to commit certain offences, possession of housebreaking equipment at night, and being in disguise or being in a building at night intending to commit certain offences. These offences also attract generally disproportionately high maximum penalties ranging from 7 to 10 years imprisonment. The current offences are also limited in that they are only committed if the relevant conduct takes place at night.

These offences derive originally from the notorious *Waltham Black Act* of 1722 (9 Geo 1, c 22) entitled 'An Act for the more effectual punishing of wicked and evil disposed Persons going armed in Disguise, and doing Injuries and Violences to the Persons and Properties of His Majesty's Subjects, and for the more speedy bringing of Offenders to Justice'. In fact, the *Waltham Black Act* was the most severe Act passed in the eighteenth century and no other Act contained so many offences punishable by death.

The current provisions of section 171 of the *Criminal Law Consolidation Act* (Nocturnal offences) derive from that Act. For example, the *Waltham Black Act* was so called because it made it an offence to be out at night with a blacked up face. The offence was aimed at nocturnal poachers. That provision is now in section 171(3) ('being in disguise at night with intent'). There seems no obvious modern justification for such an offence, particularly one punishable by 7 to 10 years imprisonment. The offence in section 171(4) ('being in a building at night with intent') has been dealt with more comprehensively by the home invasion amendments of 1999.

It is proposed to deal with the offence in section 171(1) ('being armed at night with a dangerous or offensive weapon with intent') in 2 ways. First, the proposed offence in what would become section 270C will cover possession of *any* article with intent in relation to offences of dishonesty, whether it be during the day or at night. However, the ambit of the current offence will be limited, in that it must occur in 'suspicious circumstances', as defined in the Bill. It is suggested that this limitation is justified by the true purpose of the offence; that is, to catch behaviour preparatory to the commission of a more serious offence. Second, insofar as the current offence deals with possession of weapons with intent to commit an offence against the person (as opposed to an offence of dishonesty), a corresponding offence is proposed to be enacted as section 270D. It can then be reviewed in its proper context when offences against the person are examined in the future.

Similarly, it is proposed to replace the offence in section 171(2) ('possession of housebreaking implements') with new section 270C. This section will cover possession of *any* article with intent, whether it be during the day or at night. However, again, the ambit of the current offence will be limited in that it must occur in 'suspicious circumstances', as defined in the Bill. It follows that *mere* possession of housebreaking implements at night is proposed no longer to be an offence as such, but will have to occur in suspicious circumstances as defined.

In general, therefore, it is proposed to replace these outmoded offences with modern offences, with suitable penalties, directed at similar conduct. The Division is headed 'Preparatory Conduct', for these offences are aimed at conduct which is more remote from the offence than an attempted offence, extending to behaviour which is preparatory to the commission of an offence. It is for that reason that an intention to commit an offence in suspicious circumstances is required.

Secret Commissions

The South Australian *Secret Commissions Prohibition Act 1920* is the current source of law on this subject, and its shortcomings have been addressed above. The Bill, therefore, proposes a new Part in the *Criminal Law Consolidation Act* to replace the *Secret Commissions Act*. The offences concern unlawful bias in commercial relationships. They cover both public and private sector fiduciaries. The essence of the offences is the exercise of an unlawful bias in the relationship, resulting in a benefit or a detriment undisclosed at the time of the transaction. The series of offences also includes a correlative offence of the bribery of a fiduciary.

Blackmail

Blackmail (or extortion, as it is sometimes known) has always been regarded as a serious offence and there are a number of variations on the offence in the *Criminal Law Consolidation Act*. These are all old specific variations on the main theme, and the essence of the proposal contained in the Bill is to generalise them into one offence. The difficult part of the offence(s) is, and has always been, that the demand must be 'unwarranted', and the Bill proposes that the test

be analogous to that proposed for the equally slippery notion of 'dishonesty'; that is, a demand will be 'unwarranted' if it is improper according to the standards of ordinary people and if the accused knows that this is so.

Piracy

The part of the *Criminal Law Consolidation Act* under review contains a series of very serious offences, indeed, dealing with piracy. These offences are very old and are, more or less, almost identical to the English statutes from which they were copied. For example, the offence contained in section 208 of the Act is almost word for word from the *Piracy Act* of 1699 and the offence of trading with pirates in section 211 is almost word for word from the *Piracy Act* of 1721. These are all punishable by life imprisonment as a result of the abolition of the death penalty.

It should be obvious that there is not a great deal of piracy in South Australia but that some offence of piracy should be on the criminal statute book, not only because of the obligations imposed by international conventions, but also because of the complexities surrounding the reach of State and Commonwealth criminal laws in the seas surrounding the State. The Bill, therefore, contains updated piracy offences. Advice is being sought from the Commonwealth about a co-operative legal regime in this area. The old piracy offences are punishable by life imprisonment and that maximum penalty is retained in the Bill.

Maximum Penalties

The subject of maximum penalties has been discussed in part above. In general terms, the maximum penalties provided for this sequence of offences in current legislation are inconsistent and the product of uncorrected historical accident, with the exception of the offences relating to serious criminal trespass, where the law was renewed and the will of Parliament firmly expressed in late 1999. An attempt has been made to rationalise the rest. It is repeated that there is no intention to send a message that any of this rationalisation is directed at a lowering of currently applicable actual penalties. The law relating to serious criminal trespass remains substantively the same as that passed in 1999.

The following table compares the old maximum penalties and those proposed by the Bill.

Offence	Old Maximum Penalty	New Maximum Penalty
Larceny (General)	5 years	10 years
Larceny (Various specific)	Up to 8 years	2 years to 10 years
Robbery	14 years	15 years
Aggravated robbery	Life	Life
Receiving	8 years	10 years
Money laundering	$200 000 or 20 years (individual) $600 00 (body corporate)	$200 000 or 20 years (individual) $600 000 (body corporate)
Fraud (Deception)	4 years (general offence) 7 years (some specific offences)	10 years
Forgery (Dishonest dealings with documents)	Various, but up to life in a number of instances	10 years
Dishonest manipulation of machines	N/A	10 years
Miscellaneous dishonesty offences	N/A	2 years to 10 years
Nocturnal offences (Preparatory offences)	7 to 10 years	up to 7 years
Secret commissions offences	$1 000 or 6 months (individual) $2 000 (body corporate)	7 years
Blackmail	Various—2 years to life	15 years
Piracy offences	Life	Life

Conclusion

This Bill represents a major reform effort in a technical and complex area of the criminal law. Technical and complex it may be but, in a sense, there are few more important areas of the law. A great deal of the workings of the criminal justice system are spent in the area of offences of dishonesty. Dishonesty is distressingly prevalent, but it has ever been thus. The law of South Australia has, for many years, been burdened with an increasingly antiquated legislative framework which represents the law as it essentially was in 1861 and earlier. This Bill is an attempt to reform and codify the law on the subject, bring it up to date, sweep away anachronisms and provide a fair and reasonable offence structure.

I commend the bill to the House.

Explanation of clauses

Clause 1: Short title

Clause 2: Commencement

These clauses are formal.

Clause 3: Amendment of s. 5—Interpretation

This clause proposes to insert the definition of local government body into section 5(1) of the principal Act.

Clause 4: Substitution of ss. 130-166

Sections 130 to 166 of the principal Act (which comprise much of the current Part 5 of the principal Act) are to be repealed and new Parts 5 (Offences of Dishonesty) and 6 (Secret Commissions) are to be substituted.

PART 5: OFFENCES OF DISHONESTY

DIVISION 1—PRELIMINARY

This Division is necessary for understanding how new Part 5 is to be interpreted and applied in relation to a person's conduct and the criminal law.

130. Interpretation

New section 130 contains quite a number of definitions for the purposes of the new Part, including definitions of benefit, deception, detriment, fundamental mistake, manipulate (a machine), owner (of property), proceeds, property, stolen property and tainted property.

131. Dishonesty

New section 131 discusses what makes a person's conduct dishonest (and, therefore, liable to criminal sanction). The concept of what constitutes dishonest conduct flows throughout new Part 5.

There are 2 limbs to dishonest conduct. A person's conduct is dishonest if—

1. the person acts dishonestly according to the standards of ordinary people (a question of fact to be decided according to the jury's own knowledge and experience); and
2. the person knows that he or she is so acting.

The conduct of a person who acts in a particular way is not dishonest if the person honestly but mistakenly believes that he or she has a legal or equitable right to act in that way.

132. Consent of owner

Reference to the consent of the owner of property extends to—

- the implied consent of the owner; or
- the actual or implied consent of a person who has actual or implied authority to consent on behalf of the owner.

A person is taken to have the implied consent of another if the person honestly believes in the consent from the words or conduct of the other. A consent obtained by dishonest deception cannot be regarded as consent.

133. Operation of this Part

This clause provides that new Part 5 operates to the exclusion of offences of dishonesty that exist at common law or under laws of the Imperial Parliament. However, the common law offence of conspiracy to defraud continues as part of the criminal law of South Australia.

DIVISION 2—THEFT

134. Theft (and receiving)

Three things must be satisfied for a person to commit theft. A person is guilty of theft if the person takes, receives, retains, deals with or disposes of property—
- dishonestly; and
- without the owner's consent; and
- intending to deprive the owner permanently of the property or to make a serious encroachment on the owner's proprietary rights.

The maximum penalty for theft is imprisonment for 10 years.

Subclause (2) explains how a person intends to make a serious encroachment on an owner's proprietary rights. This will occur if the person intends—
- to treat the property as his/her own to dispose of regardless of the owner's rights; or
- to deal with the property in a way that creates a substantial risk (of which the person is aware) that the owner will not get it back or that, when the owner gets it back, its value will be substantially impaired.

A person may commit theft of property—
- that has lawfully come into his/her possession; or
- by the misuse of powers that are vested in the person as agent or trustee or in some other capacity that allows the person to deal with the property.

However, if a person honestly believes that he/she has acquired a good title to property, but it later appears that the title is defective because of a defect in the title of the transferor or for some other reason, the later retention of the property, or any later dealing with the property, by the person cannot amount to theft.

Theft committed by receiving stolen property from another amounts to the offence of receiving (but it is not essential to use that description of the offence in an instrument of charge). If a person is charged with receiving, the court may, if satisfied beyond reasonable doubt that the defendant is guilty of theft but not that the theft was committed by receiving stolen property from another, find the defendant guilty of theft.

135. Special provision with regard to land and fixtures

A trespass to land, or other physical interference with land, cannot amount to theft of the land (even when it results in acquisition of the land by adverse possession), but a thing attached to land, or forming part of land, can be stolen by severing it from the land.

136. General deficiency

A person may be charged with, and convicted of, theft by reference to a general deficiency in money or other property, and it is not necessary, in such a case, to establish any particular act or acts of theft.

DIVISION 3—ROBBERY

137. Robbery

A person who commits theft is guilty of robbery if—
- the person uses force, or threatens to use force, against another in order to commit the theft or to escape from the scene of the offence; and
- the force is used, or the threat is made, at the time of, or immediately before or after, the theft.

The maximum penalty for robbery is imprisonment for 15 years.

A person who commits robbery is guilty of aggravated robbery if the person—
- commits the robbery in company with one or more other persons; or
- has an offensive weapon with him/her when committing the robbery.

The maximum penalty for aggravated robbery is imprisonment for life.

If 2 or more persons jointly commit robbery in company, each is guilty of aggravated robbery.

DIVISION 4—MONEY LAUNDERING

138. Money laundering

A person who engages, directly or indirectly, in a transaction involving property the person knows to be tainted property is guilty of an offence. The maximum penalty for a natural person convicted of money laundering is a fine of $200 000 or imprisonment for 20 years and, for a body corporate, a fine of $600 000.

A person who engages, directly or indirectly, in a transaction involving tainted property in circumstances in which the person ought reasonably to know that the property is tainted is guilty of an offence. The maximum penalty for a natural person convicted of such an offence is imprisonment for 4 years and for a body corporate a fine of $120 000.

A transaction includes any of the following:
- bringing property into the State;
- receiving property;
- being in possession of property;
- concealing property;
- disposing of property.

DIVISION 5—DECEPTION

139. Deception

A person who dishonestly deceives another in order to benefit (*see new section 130*) him/herself or a third person, or cause a detriment (*see new section 130*) to the person subjected to the deception or a third person is guilty of an offence the maximum penalty for which is imprisonment for 10 years.

DIVISION 6—DISHONEST DEALINGS WITH DOCUMENTS

140. Dishonest dealings with documents

For the purposes of this new section, a document is false if the document gives a misleading impression about—
- the nature, validity or effect of the document; or
- any fact (such as, for example, the identity, capacity or official position of an apparent signatory to the document) on which its validity or effect may be dependent; or
- the existence or terms of a transaction to which the document appears to relate.

A true copy of a document that is false under the criteria prescribed above is also false.

A person engages in conduct to which this new section applies if the person—
- creates a document that is false; or
- falsifies a document; or
- has possession of a document knowing it to be false; or
- produces, publishes or uses a document knowing it to be false; or
- destroys, conceals or suppresses a document.

Proposed subsection (4) provides that a person is guilty of an offence if the person dishonestly engages in conduct to which this proposed section applies intending one of the following:
- to deceive another, or people generally, or to facilitate deception of another, or people generally, by someone else;
- to exploit the ignorance of another, or the ignorance of people generally, about the true state of affairs;
- to manipulate a machine or to facilitate manipulation of a machine by someone else,

and, by that means, to benefit him/herself or another, or to cause a detriment to another. The maximum penalty for such an offence is imprisonment for 10 years.

A person cannot be convicted of an offence against proposed subsection (4) on the basis that the person has concealed or suppressed a document unless it is established that—
- the person has taken some positive step to conceal or suppress the document; or
- the person was under a duty to reveal the existence of the document and failed to comply with that duty; or
- the person, knowing of the existence of the document, has responded dishonestly to inquiries directed at finding out whether the document, or a document of the relevant kind, exists.

It is a summary offence (penalty of imprisonment for 2 years) if a person has, in his/her possession, without lawful excuse, any article for creating a false document or for falsifying a document.

DIVISION 7—DISHONEST MANIPULATION OF MACHINES

141. Dishonest manipulation of machines

A person who dishonestly manipulates a machine (*see new section 130*) in order to benefit him/herself or another, or cause a detriment to another, is guilty of an offence, the penalty for which is imprisonment for 10 years.

A person who dishonestly takes advantage of the malfunction of a machine in order to benefit him/herself or another, or cause a detriment to another, is guilty of an offence, the penalty for which is imprisonment for 10 years.

DIVISION 8—DISHONEST EXPLOITATION OF ADVANTAGE

142. Dishonest exploitation of position of advantage

This proposed section applies to the following advantages:
- the advantage that a person who has no disability or is not so severely disabled has over a person who is subject to a mental or physical disability;

- the advantage that one person has over another where they are both in a particular situation and one is familiar with local conditions (*see new section 130*) while the other is not.

A person who dishonestly exploits an advantage to which this proposed section applies in order to benefit him/herself or another or cause a detriment to another is guilty of an offence and liable to a penalty of imprisonment for up to 10 years.

DIVISION 9—MISCELLANEOUS OFFENCES OF DISHONESTY

143. Dishonest interference with merchandise

A person who dishonestly interferes with merchandise, or a label attached to merchandise, so that the person or someone else can get the merchandise at a reduced price is guilty of a summary offence (imprisonment for a maximum of 2 years).

144. Making off without payment

A person who, knowing that payment for goods or services is required or expected, dishonestly makes off intending to avoid payment is guilty of a summary offence (imprisonment for up to 2 years).

However, this proposed section does not apply if the transaction for the supply of the goods or services is unlawful or unenforceable as contrary to public policy.

PART 6: SECRET COMMISSIONS

DIVISION 1—PRELIMINARY

145. Interpretation

New section 145 contains definitions of words used in new Part 6. In particular, a person who works for a public agency (as defined) by agreement between the person's employer and the public agency or an authority responsible for staffing the public agency, is to be regarded, for the purposes of this new Part, as an employee of the public agency.

DIVISION 2—UNLAWFUL BIAS IN COMMERCIAL RELATIONSHIPS

146. Fiduciaries

A person is, for the purposes of this new Part, to be regarded as a fiduciary of another (the principal) if—

- the person is an agent of the other (under an express or implied authority); or
- the person is an employee of the other; or
- the person is a public officer and the other is the public agency of which the person is a member or for which the person acts; or
- the person is a partner and the other is another partner in the same partnership; or
- the person is an officer of a body corporate and the other is the body corporate; or
- the person is a lawyer and the other is a client; or
- the person is engaged on a commercial basis to provide advice or recommendations to the other on investment, business management or the sale or purchase of a business or real or personal property; or
- the person is engaged on a commercial basis to provide advice or recommendations to the other on any other subject and the terms or circumstances of the engagement are such that the other (that is, the principal) is reasonably entitled to expect that the advice or recommendations will be disinterested or that, if a possible conflict of interest exists, it will be disclosed.

147. Exercise of fiduciary functions

A fiduciary exercises a fiduciary function if the fiduciary—

- exercises or intentionally refrains from exercising a power or function in the affairs of the principal; or
- gives or intentionally refrains from giving advice, or makes or intentionally refrains from making a recommendation, to the principal; or
- exercises an influence that the fiduciary has because of the fiduciary's position as such over the principal or in the affairs of the principal.

148. Unlawful bias

A fiduciary exercises an unlawful bias if—

- the fiduciary has received (or expects to receive) a benefit from a third party for exercising a fiduciary function in a particular way and the fiduciary exercises the function in the relevant way without appropriate disclosure of the benefit or expected benefit; and
- the fiduciary's failure to make appropriate disclosure of the benefit or expected benefit is intentional or reckless.

Appropriate disclosure is made if the fiduciary discloses to the principal the nature and value (or approximate value) of the benefit and the identity of the third party from whom the benefit has been (or is to be) received.

149. Offence for fiduciary to exercise unlawful bias

A fiduciary who exercises an unlawful bias is guilty of an offence and liable to a maximum penalty of imprisonment for 7 years.

150. Bribery

A person who bribes a fiduciary to exercise an unlawful bias is guilty of an offence and liable to a penalty of imprisonment for up to 7 years.

A fiduciary who accepts a bribe to exercise an unlawful bias is guilty of an offence and liable to a penalty of imprisonment for up to 7 years.

It is proposed that this new section will apply even though the relevant fiduciary relationship had not been formed when the benefit was given or offered if, at the relevant time, the fiduciary and the person who gave or offered to give the benefit anticipated the formation of the relevant fiduciary relationship or the formation of fiduciary relationships of the relevant kind.

DIVISION 4—EXCLUSION OF DEFENCE

154. Exclusion of defence

It is not a defence to a charge of an offence against new Part 6 to establish that the provision or acceptance of benefits of the kind to which the charge relates is customary in a trade or business in which the fiduciary or the person giving or offering the benefit was engaged.

Clause 5: Substitution of heading

It is proposed that sections 167 to 170 (as amended in a minor consequential manner—*see clauses 6 and 7 below*) will become a separate Part of the principal Act. These sections would comprise new Part 6A to be headed "SERIOUS CRIMINAL TRESPASS".

Clause 6: Amendment of s. 167—Sacrilege

Clause 7: Amendment of s. 168—Serious criminal trespass

On the passage of the Bill, the use of the term "larceny" will become obsolete and "theft" will, instead, be used. The amendments proposed in these clauses are consequential.

Clause 8: Substitution of ss. 171 to 236

it is proposed to repeal sections 171 to 236 of the principal Act and to substitute the following new Parts dealing with blackmail and piracy.

PART 6B: BLACKMAIL

171. Interpretation

New section 171 contains definitions of words and phrases use in this new Part, including demand, harm, menace, serious offence and threat.

The question whether a defendant's conduct was improper according to the standards of ordinary people is a question of fact to be decided according to the jury's own knowledge and experience and not on the basis of evidence of those standards.

172. Blackmail

A person who menaces another intending to get the other to submit to a demand is guilty of blackmail and liable to imprisonment for up to 15 years. The object of the demand is irrelevant.

PART 6C: PIRACY

173. Interpretation

A person commits an act of piracy if—

- the person, acting without reasonable excuse, takes control of a ship, while it is in the course of a voyage, from the person lawfully in charge of it; or
- the person, acting without reasonable excuse, commits an act of violence against the captain or a member of the crew of a ship, while it is in the course of a voyage, in order to take control of the ship from the person lawfully in charge of it; or
- the person, acting without reasonable excuse, boards a ship, while it is in the course of a voyage, in order to take control of the ship from the person lawfully in charge of it, endanger the ship or steal or damage the ship's cargo; or
- the person boards a ship, while it is in the course of a voyage, in order to commit robbery or any other act of violence against a passenger or a member of the crew.

174. Piracy

A person who commits an act of piracy is guilty of an offence and liable to imprisonment for life.

Clause 9: Amendment of s. 237—Definitions

The amendment proposed to section 237 of the principal Act is to keep Part 7 consistent with new Part 6. Both of these Parts deal with offences by public officers. The proposed amendment will insert into section 237 the broader interpretation of who is to be a public officer for the purposes of Part 7 of the principal Act.

Clause 10: Amendment of s. 270B—Assaults with intent
Section 270B of the principal Act comes under the divisional heading of *Assault with Intent to Commit and Offence* and provides that a person who assaults another with intent to commit an offence to which the section applies is guilty of an offence. The proposed amendment to this section is consequential (the note to section 270B refers to larceny). The note to section 270B is to be struck out and a subsection inserted that provides that the section will apply to the following offences:

- an offence against the person;
- theft or an offence of which theft is an element;
- an offence involving interference with, damage to, or destruction of, property that is punishable by imprisonment for 3 years of more.

Clause 11: Insertion of ss. 270C and 270D
New sections 270C and 270D deal with preparatory conduct.

270C. Going equipped for commission of offence of dishonesty or offence against property
A person who is, in suspicious circumstances, in possession of an article intending to use it to commit an offence to which new section 270C applies is guilty of an offence, the maximum penalty for which is—

- if the maximum penalty for the intended offence is life imprisonment or imprisonment for 14 years or more—imprisonment for 7 years;
- in any other case—imprisonment for one-half the maximum period of imprisonment fixed for the intended offence.

It is proposed that this new section will apply to the following offences:

- theft (or receiving) or an offence of which theft is an element;
- an offence against Part 6A (Serious Criminal Trespass);
- unlawfully driving, using or interfering with a motor vehicle;
- an offence against Part 5 Division 6 (Dishonest Dealings with Documents);
- an offence against Part 5 Division 7 (Dishonest Manipulation of Machines);
- an offence involving interference with, damage to or destruction of property punishable by imprisonment for 3 years or more.

A person is in suspicious circumstances if it can be reasonably inferred from the person's conduct or circumstances surrounding the person's conduct (or both) that the person—

- is proceeding to the scene of a proposed offence; or
- is keeping the scene of a proposed offence under surveillance; or
- is in, or in the vicinity of, the scene of a proposed offence awaiting an opportunity to commit the offence.

270D. Going equipped for commission of offence against the person
A person who is armed, at night, with a dangerous or offensive weapon intending to use the weapon to commit an offence against the person is guilty of an offence.

The maximum penalty for such an offence is—

- if the offender has been previously convicted of an offence against the person or an offence against this proposed section (or a corresponding previous enactment)—imprisonment for 10 years;
- in any other case—imprisonment for 7 years.

Clause 12: Amendment of s. 271—General power of arrest
On the passage of the Bill, the use of the term "larceny" will become obsolete and "theft" will, instead, be used. The amendment proposed in this clause is consequential.

Clause 13: Repeal of ss. 317 and 318
These sections of the principal Act are obsolete and are to be repealed.

Clause 14: Insertion of s. 330
The following new section is to be inserted in Part 9 of the principal Act after section 329.

330. Overlapping offences
No objection to a charge or a conviction can be made on the ground that the defendant might, on the same facts, have been charged with, or convicted of, some other offence.

Schedule 1: Repeal and Transitional Provision
The *Secret Commissions Prohibition Act 1920* is to be repealed as a consequence of new Part 6.

The principal Act as in force before the commencement of this measure applies to offences committed before this measure becomes law. The principal Act as amended by this measure applies to offences committed on or after this measure becomes law.

Schedule 2: Related Amendments to Other Acts
Schedule 2 contains amendments that are related to the amendments proposed to the criminal law by this measure to the following Acts:

- *Criminal Assets Confiscation Act 1996*
- *Criminal Law (Sentencing) Act 1988*
- *Criminal Law (Undercover Operations) Act 1995*
- *Financial Transaction Reports (State Provisions) Act 1992*
- *Kidnapping Act 1960*
- *Shop Theft (Alternative Enforcement) Act 2000*
- *Summary Offences Act 1953*
- *Summary Procedure Act 1921.*

Mr SNELLING secured the adjournment of the debate.

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

MEMBER'S REMARKS

Mr De LAINE (Price): I seek leave to make a personal explanation.

Leave granted.

Mr De LAINE: In his speech last evening the member for Spence made reference to the fact that in relation to a 1986 bill it passed because the member for Price was absent from the division, and that was quite correct. Being a good caucus member at that time I abstained from voting in order to protect a colleague who was in a very marginal seat. However, a week later the then Leader of the Opposition, Hon. John Olsen, introduced a private member's bill to revoke that cannabis bill and I then crossed the floor and supported that. So, in effect, I actually did cross the floor and oppose the decriminalisation of marijuana.

CONTROLLED SUBSTANCES (CANNABIS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 13 November. Page 2741.)

Mr MEIER (Goyder): I rise to support this bill, and I compliment the government on bringing it in. It is very pleasing to see the government going down this line of seeking to make the number of cannabis plants that can be grown using hydroponic means zero, and so it should be. Many members would be well aware of the negative effects of cannabis. In fact, an article by a Siobhan McMahon back in 1985 in the *Reader's Digest* said:

> Heavy use of the drug has been linked to cancer, respiratory diseases, psychiatric disorders, and to birth defects in the children of users. Those who smoke it in their early teens are at higher risk than non users of progressing to harder drugs like heroin and cocaine.

In fact, the evidence is reproduced in many different articles. In an article from the *Medical Journal of Australia* in 1992 entitled 'The human toxicity of marijuana' Messrs Nahas and Latour identify many of the negative effects of cannabis. Before going into aspects of that article, I want to highlight one point that was mentioned last night, and I say it again, that cannabis contains the intoxicating material of tetrahydrocannabinol, commonly known as THC. In the article, both Nahas and Latour note that:

> The immediate effect of marijuana is the creation of a pleasant, dreamy state, with impairment of attention, cognitive and psychomotor performance, which appears to the subject to be reversible. Because of its lack of acute life-threatening effects, cannabis has been called a 'soft drug', no more damaging than coffee or tobacco. However, this designation should be revised in view of the drug's prolonged impairing effects on memory and learning and its long-term toxic effects on the lung and on immune defences, brain and

reproductive function, which have only recently been reported and which confirm experimental observations.

I think, therefore, that we as law makers need to take every step that we possibly can to ensure that our citizens are protected from the negative effects of marijuana. Certainly, it has been clearly outlined that South Australia has been the laughing stock, in a sense, when back in 1986, for all intents and purposes the growing of marijuana was basically decriminalised, and, whilst legally that is not the case, technically it certainly is the case. Some people have put forward the argument that, by bringing to zero the number of plants that can be grown using hydroponic means, we are going to increase the chance of profit making or trafficking in drugs. Well, an article in the *Digest* says very clearly that this is wrong. In fact, that article indicates:

Trafficking offences in South Australia have doubled since cannabis was decriminalised in April 1987.

In fact, a Detective Superintendent Denis Edmonds, the officer in charge of the South Australian Drugs Taskforce, was quoted in that *Reader's Digest* article as follows:

The temptation is for people to grow 10 plants and sell what they don't use.

So, in fact, that whole myth has been exposed. Another myth is that other countries have safety decriminalised cannabis, and again I would like to refer to some evidence which indicates that since 1976 Dutch authorities have turned a blind eye to coffee houses where cannabis is sold, and these have increased from some 200 so-called coffee houses to around 10 000. The consumption of cannabis by young people has almost trebled and drug violators in Holland now account for 40 per cent of the Dutch prison population, according to one study, and the Netherlands is now one of the most crime prone nations in Europe.

So much for saying that decriminalisation of cannabis can assist the community, can help people get away from crime and from drugs. In fact, the Netherlands example shows quite the opposite. A good friend of mine who was in Amsterdam about two years ago said that he thought it was just a total disgrace to see the way Amsterdam was, with the free availability of drugs, and he said it was a really druggy city and one that he wanted to avoid or get out of as soon as he could.

So, it is very important that we get this bill passed, and certainly there is so much other evidence to indicate the harmful effects of marijuana. Other evidence from the article I referred to earlier by Nahas and Latour indicates:

Symptoms of airway obstruction have been clinically documented in controlled experiments performed in young people who smoke marijuana every day.

A study by Donald reported 12 cases of head and neck cancer in young patients with an average age of 26 years, and reported:

All had been daily marijuana or hashish smokers since high school, but they did not smoke tobacco or use much alcohol.

A study by Taylor reported:

Of 10 patients under 40 years of age with cancer of the respiratory tract, seven had a history of daily marijuana use.

Taylor concluded that:

Regular marijuana use appeared to be an additional significant risk factor for the development of cancer of the upper airways.

Furthermore, a study showed that there was a ten-fold increased risk of leukaemia in the offspring of mothers who had smoked marijuana just before or during pregnancy. Furthermore, in the 1980s anomalies in newborn babies exposed to marijuana during gestation were reported by several investigators, and a gentleman called Hingson described deficits, that is, lower weight and head circumference, in babies born to marijuana smoking mothers. It was reported that:

Infants born to these marijuana smoking mothers were shorter, weighed less and had smaller head circumference at birth.

Again, the acute impairment of mental performance by marijuana in mankind is well recognised. In fact, a study by Schwartz proves the specific lasting property of marijuana to impair memory storage and the central part of the learning process and to adversely affect psychomotor performance.

Basically, there is evidence in so many journals these days to indicate that marijuana is such a negative substance, and I cannot wait for this bill to be passed. I believe that further moves are also going to be made to reduce down to one the number of marijuana plants that can be grown non-hydroponically. Personally, I would have no problems with its going down to zero, but I believe that significant advances have been made by going from 10 down to three, and in due course down to one; and at least we are going down to zero for hydroponically grown marijuana plants. This bill has my full support.

Mr McEWEN (Gordon): I rise to briefly put on record my support for the government's initiative in relation to the growing of hydroponic marijuana. The only problem I have is, of course, policing it. We ought to be thinking far more seriously about implementing this. Good ideas are no more than good ideas unless you can actually put some resources on the ground, and it will just end up being more puff and wind than a practical resolution to a problem.

The Hon. R.B. SUCH (Fisher): I, too, rise to support this bill and I will be brief. It is a pity that this measure was not introduced some time ago but, having said that, I commend the minister and the government for initiating this action.

We in South Australia have more hydroponic shops than Sydney, and not only does the consumption of marijuana or cannabis lead to various health problems but also it is a significant factor in the area of crime. It is responsible, particularly the hydroponic production, for a whole lot of what I euphemistically call 'home invasions'; it is also very much linked to the incidence of home fires. I guess the heart of AGL will be cheered when this bill is enacted as there will be a significant decline in the consumption of electricity in South Australia.

The measure that we are debating tonight is long overdue. I have not had people lobbying me against this proposal. I believe that the overwhelming majority of our citizens support this measure, and the sooner that it can be brought into play the better. I commend the bill to the House.

Ms WHITE (Taylor): I rise to support this bill as it removes hydroponically grown cannabis from the expiation scheme. I support that, although it does not change the fact that cannabis is a prohibited substance, and I think that is as it should be. A lot has been said about the link between hydroponically cultivated cannabis cropping and crime. I am particularly concerned about the impact of drug-related crime on South Australians. Our party has often spoken about the very serious crime of home invasions and the links, in some cases, to hydroponically grown drug crops, and that is of concern, as is the evidence that some members have raised about the trade across borders, with South Australian

cannabis being traded for harder drugs interstate. I do not have any expertise or knowledge apart from comments that have been made by individual police officers to me about that, so I do not know how accurate that information is, but it does seem credible to me. If that is the case, it is of concern to me.

My support for this legislation and for a tough stand on drugs is driven not so much by the health impacts on adults who partake (although I am very concerned about that) or by the impact of drug-related crime on citizens but by my exposure to the impact on children, either through direct drug taking or drug taking amongst family members.

In my job as shadow minister for education, I spend a lot of time in schools, meeting students. I see many glimpses of their families and family life. There is very little that saddens me more than to come across children and young teenagers who are the embodiment of wasted opportunities when it comes to life and to education. This is at both ends of the spectrum, such as the children who come to school so tired because they are not being cared for as well as they should be by their families who are drug users. I include in that the so-called soft and hard drugs. This affects children right through to teenagers whom one comes across in schools and who are showing the effects of habitual drug use.

A couple of members have referred to recent surveys where children have indicated their experiences with drugs. These are quite alarming statistics if what these children say is correct: that roughly a third of young people between 14 and 19 years of age have had experiences with drug taking, and roughly 10 per cent of those youngsters had regular experience with those drugs. That is quite alarming when you consider the impact on those children's lives and on those families.

It is particularly good to see that this piece of legislation is coming through. In my role as the shadow education minister, I talk to quite a number of teachers whose very job is monitoring and assessing the development of children. One of the really interesting things that I have discovered when I have spoken to teachers about drugs in schools and the drug problems in communities in general (and the bulk of our teachers are of an age that was exposed in the 1960s and 1970s to one form of drug taking or another; and quite a number of teachers will say to me that they themselves have taken in the past, or currently take, drugs) is their opinion on the impact that drugs are having in schools and on children.

Even those teachers who have quite a liberal attitude towards adult drug taking and who have their own past experiences of occasional use, or even quite extensive experimentation in their youth, have a very strong commitment to the idea that drugs have an extremely harmful effect on children and children's lives and an incredible impact on families. They are one group of people who do see a lot; who do have to deal with the behaviour of children in schools; and who perhaps more than a lot of other people have glimpses of the family situation of those children. From that point of view, I am often quite alarmed on going into classrooms to be told about individual children's experiences of family life and the impact that drugs in their family have had on them, and to hear about the children's development in classrooms is quite disturbing.

I was very pleased to see the number of plants reduced from 10 to three. I myself am not an expert, but I think three plants is a leniency in our current laws and I am inclined towards tougher drug laws than that. One thing I find very interesting when talking to people who have had experience in cultivating and consuming cannabis is their view of the cap on numbers of plants. I have heard many people discussing how many plants is a reasonable number of plants to be the trigger in an expiation scheme. They have talked about the need to allow statistically for the fact that one might grow the wrong gender, and the usual argument put forward is that one needs to have twice the number of plants that you want to end up with because half of them statistically will be female and half of them statistically will be male, so half of them will be fairly useless.

With the limit of 10 plants, many individuals were saying to me, 'That means you grow 20.' When asked what would happen if they had more than 10 plants that were healthy and useable plants, there was never any suggestion that they get rid of that excess. It seems the laws do influence people's behaviour and the number of plants they grow and, eventually, the amount of cannabis out there in the community. I do not know what impact this bill realistically will have on the amount of cannabis in the community or on the behaviour of those who cultivate it or its ultimate impact on our community, but if it does act to limit the amount of drugs in the community I am certainly in favour of it. I hope that will be the outcome. I look forward to much more discussion on this very important issue which has a dramatic impact on families and, from my point of view, children.

The Hon. W.A. MATTHEW (Minister for Minerals and Energy): I rise to support my Liberal colleagues on this side of the House in our support for this bill. In so doing, I commend the Minister for Human Services for bringing forward this bill to start well and truly to put into the past Labor's soft on drugs strategy. It is important to reflect on how we actually got to the situation where we are in this chamber today. Make no mistake about it: we are debating this bill tonight because of the Labor Party in government and its 'soft on drugs' strategy. This bill would not have been necessary were it not for the Labor Party's soft on drugs strategy.

In an effort to illustrate to the community at the time their tolerance towards drug taking, as the Labor Party members of the day would advocate recreational drug taking, they introduced an expiation system, not for reasons, as some of them would tout, to reduce a clog in the court system over drug-related matters but, rather, to try to make recreational drug taking and the use of cannabis acceptable within our community. That was the strategy of the Labor Party—and make no mistake about it.

Labor's strategy has not worked; Labor's strategy has failed; Labor's strategy has resulted in organised criminal activity in South Australia. I am aware from my time as police minister of considerable police concerns about syndicates organising groups of people to cultivate hydroponically 10 plants at a time within the Labor government's 10 plant expiation system. What that meant is that, if they grouped together 10 people each growing 10 plants, 100 plants, particularly grown hydroponically, produces an enormous amount of cannabis to be sold on the street—an enormous amount of cannabis to be sold on the street under Labor's initiative. I think it is important to reflect upon just what—

Ms Stevens interjecting:

The Hon. W.A. MATTHEW: The honourable member may care to interject, but she also knows that the *Hansard* record proves beyond any debate that this was a Labor Party initiative. It is interesting to see Labor members of parliament

during this debate hop up and say, 'Me too.' I listened last night with interest to the remarks of the Leader of the Opposition—if he stays Leader of the Opposition because I understand they are doing the numbers on him now; but the Leader of the Opposition for the time being—trying to demonstrate his leadership in this place by saying that the Labor Party supports this bill.

I hope the Labor Party does support this bill. I hope the Labor Party does support the regulation which the Minister for Human Services also indicated in his second reading speech and which he will put in place to reduce the number of plants under expiation to just one and, of course, this legislation to eliminate under expiation any plants grown hydroponically. I look forward to seeing if, indeed, Labor Party members will follow the words of their leader for the time being last night. That will be very interesting. History has shown us that the Labor Party is soft on drugs.

Mr SNELLING: Mr Speaker, I draw attention to standing order 127. The Minister for Minerals and Energy is imputing improper motives. He is suggesting that members opposite want to encourage drug taking, and that is a clear infringement of standing order 127, 'imputing improper motives'.

The SPEAKER: Order! The chair has just read standing order 127. I do not interpret it in the same way. If members feel they are offended by remarks of other members they have an opportunity in debate to refute that, but I do not uphold that point of order.

The Hon. W.A. MATTHEW: Thank you, Mr Speaker. Police information is that one hydroponically grown cannabis plant is now capable of producing conservatively about 500 grams of cannabis. It is possible to produce three to four crops in one year. I come back to the point that we had syndicates organising perhaps 10 people to each grow 10 plants, hydroponically in this way, to produce this amount of marijuana that was available on the streets. All that, despite the sensitivities of the member opposite—and I will say the member for Playford is consistent in this; he is opposed to drugs; and I know that since his time in this parliament he has been concerned about this issue. I welcome members, like the member for Playford, joining the Labor Party and I wish him well in educating the rest of his colleagues because I know he is, indeed, an honourable man. That number of plants has been on the street as a direct result of initiatives taken under the Labor government. That fact cannot be disputed: it is as a direct result of initiatives taken under a Labor government.

To give a further example of the ways in which syndicates operate, I recently talked to a local real estate agent who explained to me some of the peculiar things that were occurring in some of the rental properties for which his company had responsibility. He was advising me that it was not uncommon to find a caravan out the back of a rental property. He told me that on one occasion he was undertaking some work on behalf of a landlord for a tenant of a rental property south of Adelaide. There was a caravan parked at that property and he was surprised to notice there was water dripping from the caravan. The door of the caravan was locked—he was unable to open it—but in the course of his work he noticed a key hanging next to the back door of the house. So—he probably should not have done this—but he picked up the key and went to the caravan and found it fitted the lock. What did he find inside? He found marijuana plants being grown hydroponically. He reported the matter to the police and they told him that it is not an uncommon act for these syndicates to go to a renter and offer to pay their rent for them in exchange for garaging a caravan in the back yard. The caravan is used to grow marijuana hydroponically and, if the authorities get a little bit too close to the crop, the caravan is hitched to back of a car and whisked off somewhere else. So, that is how Labor's soft on drugs policy, during its time in government, has manifested.

It goes further than that, going to the core of what drugs actually do within our community and that is affecting individual members of our community. A significant part of the electorate I represent is a young community and I only need to look at what happens in some parts of my electorate to see young people, on the streets at night under the influence of alcohol or other substances—police tell me in some cases it is cannabis—and those young people are committing acts of vandalism that they are simply not responsible for, as a consequence of their state of mind. The influence of drugs on young people which causes them to behave in that way is indeed a community tragedy.

Ms Rankine interjecting:

The Hon. W.A. MATTHEW: The honourable member sits there and harps away. She will have her chance to speak a little bit later. I know this is a sensitive issue for members of the Labor Party. I listened last night with interest as the member for Giles addressed the parliament. The member for Giles accused the Liberal Party of bringing this bill forward—

An honourable member interjecting:

The SPEAKER: Order, the member for Wright! First, she is out of her seat and, secondly, she should not interject. I suggest she return to her seat if she wants to take part in this debate.

The Hon. W.A. MATTHEW: Thank you Mr Speaker. Paraphrasing the words of the member for Giles last night, she said something like 'The Liberal Party has been watching too many Johnny Howard movies and is wanting to take a me-too tough stance on drugs.' The member for Giles should have a close look at when this bill was touted, when it was introduced to the House. It happened well before the fabulous result of the last federal election. The fact is that the Liberal Party in South Australia, like the Liberal Party federally, does have a tough on drugs strategy, whether the member for Wright likes it or not. It is quite a contrast to Labor's actions in its time in government. I am not talking to the member for Wright about what her personal view may be. I am simply making the point that while Labor was in office it had the opportunity to act on this matter and did not. It failed to act on this matter. The member for Wright would also be aware that the legislation we are debating tonight is a direct result of the actions of—

Ms White interjecting:

The Hon. W.A. MATTHEW: Hear the interjection from the member for Taylor that that was the last century! Is that going to be the approach of the Labor Party now? We have a new Labor Party—all the deeds of the past were in the last century.

Ms White interjecting:

The Hon. W.A. MATTHEW: A young woman then. I would say the member for Taylor is still a young woman but that does not change the fact that her political party has a 'soft on drugs' strategy in government. The proof is there: the public can see it. I would put to the Labor Party, the member for Giles and the other members opposite tonight who are interjecting that it is perhaps they who are reeling in the aftermath of the tough on drugs stance of the federal Liberal government, because Australians demonstrated that they

wanted a government that is going to make decisions. They want a government that is going to be tough on drugs.

An honourable member interjecting:

The SPEAKER: Order! I think the member for Taylor has had a fair go. She can contribute later in the debate if she wishes.

The Hon. W.A. MATTHEW: Thank you for your protection, Mr Speaker. The people of South Australia want a government that is going to make the tough and necessary decisions in the best interests of our community. The fact that this bill eliminates hydroponically grown cannabis plants from the expiation system is a step in the right direction. The Minister for Human Services indicates in his second reading speech that he will change the regulations to reduce the number of cannabis plants for expiation from three to one: it is a step in the right direction. My personal preference, for the record, is that it go from three to zero, but three to one is a trend in the right direction. I will be watching very carefully the effects of those regulations to determine whether there is a good solid case for going from one to zero, to put well and truly into the past Labor's expiation system, Labor's infringement fine system for drug taking in our community. That system trivialised the offence of peddling drugs, growing drugs and taking drugs in our community, and it resulted in a level of tolerance which has caused problems. It is no accident that, as a direct result of Labor's policy, Labor's legislation and Labor's regulations, we have more hydroponic shops per capita in South Australia than any other city in Australia.

A number of my colleagues have referred to letters that have been sent to them by various hydroponic retailers in Adelaide, and they are protesting that this legislation, if successful, will have an impact on their business. No Liberal member of parliament wants to see a small business person suffer, but the fact is that the businesses of those hydroponic retailers have been prospering because of Labor's soft on drugs laws—and we are putting them to an end. While those retailers themselves have not indulged in anything that is wrong, they have been profiting from people who have been indulging in something that is wrong.

I make no apology to those retailers for supporting this legislation. It is necessary and important legislation. It is legislation demanded by the community to ensure that Labor's soft on drugs strategy becomes a thing of the past and, as the member for Taylor would perhaps have it, relegated to the last century. I am sure that South Australians will, over time, see the benefit of this legislation when it is passed by the parliament, as it would appear it is going to be.

The challenge for members of the Labor Party, and particularly those in another place who, it would appear in the current parliament, have a wont to be a little soft on some of these issues, is whether they are prepared to allow the regulations that are set by the Minister for Human Services to stand with time. I look forward to seeing whether the Labor Party will move to disallow the regulations in another place, as it has done before. But make no mistake about it: the Labor Party has already, during the life of this current parliament, disallowed regulations that reduced 10 plants to three and to take the number back to 10 again. If it were not for the Labor Party, we would not have been in a situation where that motion was debated in another place. That stands as a fact.

I understand the concern of the member for Playford, because I respect him as a man of conscience and a man of principle, and I wish him well in educating the rest of his colleagues likewise. The member for Price is also a man of principle and conscience.

An honourable member interjecting:

The Hon. W.A. MATTHEW: Did you say he was sitting by himself?

Members interjecting:

The Hon. W.A. MATTHEW: The member for Price may well be sitting by himself on the crossbenches, as being no longer a member of the Labor Party, but that is because the member for Price is a man of principle. I respect the way in which he has conducted himself as a member of this place. He has always been consistent, particularly in relation to drugs. So the member for Price certainly is not part of the Labor soft on drugs strategy. He stands head and shoulders above others in the way he represents the viewpoint of his community and with his tough attitude on drugs. I know that he will join us in supporting this bill and I know that the member for Price will do his level best to make sure that those people in the Labor Party who he believes have a similar viewpoint will not move to disallow the regulations of the Minister for Human Services that will reduce the number of cannabis plants further from three to one.

I am delighted that this bill is before the parliament, because it gives the parliament the opportunity to put the facts on the record. I again commend the Minister for Human Services for bringing it forward in the interests of the people of South Australia.

Ms CICCARELLO (Norwood): I had not intended to debate this bill, because practically everyone has debated it already. I am exposed every day to the misery and degradation that drug addiction causes people. My office is just around the corner from Warinilla, the drug rehabilitation clinic, and I see a stream of people all day, every day. It saddens me to see the way in which people are reduced because of the use of drugs. It is one of the worst problems in our society. I do not know that the measure we are taking will be the solution to the drugs problem. However, the leader indicated yesterday that the measure has the full support of the Labor Party, so I wonder why we are having to put up with this tirade from members opposite. It is disgraceful, as the member for Wright rightly says, that members opposite are trying to exercise what the member for Ross Smith called last night wedge politics. We are supporting this bill, so why do we not just get on with it to come up with a solution for the people in our community.

Mr WILLIAMS (MacKillop): I support this bill. It is a move in the right direction, and the Labor Party stands condemned for the actions it has taken historically on the matter of drugs. It is not my intention to go over ground covered by other members, because this debate has been protracted, but I do want to point out and put on the public record the unique aspect of this debate. The member for Playford interjected across the chamber a moment ago, when the Minister for Minerals and Energy was on his feet, that a conscience vote applied to the disallowance of the regulation in the upper house.

It is very important for the House to recognise that this is the first time that drug issues, marijuana issues, have been debated in this chamber and the Labor Party has been whipped. It is the first time that the issue of drugs, the issue of marijuana, has been discussed when the Labor Party has been whipped into submission, when members have not been allowed to vote according to their conscience.

It is worth noting that this comes hot on the heels of last Saturday's election result, when all of a sudden Kim Beazley came to the realisation that you do not sneak into power by having no policies. You do not sneak into power by hiding and ducking and weaving from every issue, and making yourself a small target. You are elected by the people of Australia, as the government of South Australia will be elected by the people of South Australia, because of leadership, because of policies that are out in the open and well enunciated, and because you show that you will be a government that will do the right thing by the people of South Australia. The most telling thing in this debate was when the Leader of the Opposition stood here in the chamber yesterday and said:

> Labor supports this legislation, and every Labor MP in this House and every Labor MP in the Legislative Council will support this legislation.

That is an historic first, where the Leader of the Opposition is starting to panic in the light of the result of last Saturday's election and, all of a sudden, realises that he has to come up with some policies of his own. He has to reinvent himself; he has to attempt to show that Labor does know what it is doing. The sad reality is that Labor does not know what it is doing. It is and, historically, always has been soft on drugs and, unfortunately, in the future, when it is not whipped into submission because of the turn of events that it has encountered in the past few days, it will again be soft on drugs.

I recognise that the member for Playford and several other members would naturally support this legislation. But normally, the members for Playford, Peake and Spence, and certainly the member for Price, when he was a member of the party, would have been rolled in the caucus, and the Labor Party would have carried on its old merry way of being soft on drugs and promulgating the belief and the feeling in the community that it was all right—

Members interjecting:

The SPEAKER: Order, the member for Waite and the member for Elizabeth!

Mr WILLIAMS: —for young people to go out and experiment with drugs. That is the sort of thing that we have had in South Australia for the past 15 years. That is the reason why South Australia is the marijuana capital of Australia. My brother-in-law recently drove his car to Sydney and, when he pulled up at traffic lights in the city, a person walking across the street in front of him noticed that his car had South Australian registration plates and said, 'Did you bring a boot load of grass for us?' South Australia is recognised all over Australia as the marijuana capital of the nation, thanks to the soft on drugs attitude of previous governments—

Mr Snelling: What have you done about it?

Mr WILLIAMS: Until now, this matter would never have got through the upper house, and the member knows that. Until now, members opposite have not been whipped into submission. The member for Playford knows only too well that not only the Labor Party is soft on drugs but also the Democrats are. The Labor Party and the Democrats, who happen to control the upper house, both agree that drugs are something which should be recognised and allowed in our community, and that people who want to partake in the drug culture should be allowed to do it unfettered. That is what the Labor Party and the Democrats have historically done in the upper house. That is why this bill has not been promulgated in this House previously, and the member knows that full well. I certainly commend the minister for bringing this bill to the House, and I wish it a speedy passage.

The Hon. DEAN BROWN (Deputy Premier): I appreciate the many and varied contributions to the debate on this bill. When the second reading debate began, I was anticipating about six speeches on the bill: I certainly had not anticipated something like four hours of debate. However, I appreciate the various points that have been raised. I particularly appreciate the fact that every member of the House who has spoken has indicated their strong support for the bill. It is interesting that this parliament seems to occasionally spend a lot of time debating bills that are supported, and where there is no opposition. I am thrilled that this legislation has such overwhelming support, because it is absolutely essential in turning around some very false perceptions out in the community.

I highlight that there is an unfortunate perception in the community that marijuana is not a health hazard, and that it can be safely smoked without having an impact on people. I am in the process of having the Department of Human Services produce a health warning in terms of the smoking and use of marijuana. That document will show (I have seen the first draft of it) that marijuana smoking is likely to lead to more severe cancers and to be at least as dangerous as—and, in fact, more dangerous, in terms of cancers, than—cigarette smoking. We know what cigarette smoking does in terms of lung cancer, and other cancers are likely to come from marijuana smoking. We also know other health risks that are derived—and I will not go through them all.

However, there is a very strong link between mental health disorders and the smoking of marijuana. The full nature of that link is not yet understood or known, to my knowledge. However, there is a very clear warning that anyone with a predisposition towards any mental health problem should understand the huge risk that they are imposing on themselves by smoking marijuana, even on an intermittent basis. If a person has any predisposition (and it is hard to determine what that is) towards schizophrenia, there is no doubt that smoking marijuana is likely to bring on schizophrenia sooner and more severely than otherwise.

So, I want to bring this document to the attention of members. In fact, only late this afternoon I received the second draft of this health warning in terms of the use of marijuana within our community. I would hope that we can go out and sell very much the same message and have the same impact on our community in terms of the health risks of marijuana use as we have done with tobacco use. There is no doubt that, with respect to tobacco use, there is a very wide perception and, as a result of that, we are able to take measures such as banning the smoking of tobacco in eating areas, and we have seen the impact that that has had.

It is interesting to see that South Australia has had a 10 per cent reduction in the use of tobacco over the past 2½ years. In fact, if one compares where South Australia currently sits with the rest of Australia with respect to those people who use tobacco, it is about 18 per cent lower in South Australia than it is for the rest of Australia.

Ms White interjecting:

The Hon. DEAN BROWN: In all age groups?

Ms White interjecting:

The Hon. DEAN BROWN: In South Australia? We do not know in terms of regions. We have figures for men and we have figures for women and, certainly, the figure for men is lower than the national figure and that for women is lower

than the national figure. The other interesting thing that has just come through on the cancer register that I released last week is that, for the first time, there is now a reduction in lung cancer in men that is directly related to the reduced incidence of smoking. If one looks at women since the late 1970s, one will see that there has been an increase in lung cancer in women. Last year, it plateaued and started to turn over. This year, it has definitely started to turn down, again, because we have reduced the incidence of smoking with respect to women.

There is a direct correlation between the level of smoking and the incidence of lung cancer. The incredible thing is that lung cancer is just one of some other quite serious health effects derived from cigarette smoking. It is part of my plan to make sure (and that is why I asked for this document to be prepared specifically at my request), and we are about to launch a major drive to make sure, that more South Australians understand the direct correlation between the use of marijuana and various serious health effects, both fairly quickly and also subsequently in life.

One of the things that drove me to do that was as a result of talking to GPs in country areas, who have a better feel for what is going on within their communities. It is interesting that they have been saying to me that there is a strong relationship—and I do not know whether it is causal, but one would suggest that it probably is—between serious mental health problems and young people using marijuana within that community. GP after GP within those communities have said that something needs to be done to alert young people to the health risks of using marijuana, and that is exactly what we are doing. We have put out to every household in South Australia a publication that I launched about two months ago. Whereas that was general in nature, this one is specific. In terms of its distribution, I suspect we will aim to put it out through the schools, life education, service clubs and other such groups, although we have not determined the final distribution details. I want to make sure that we get that message across.

A lot of people feel that this campaign against the use of marijuana is one that authorities have taken up simply for the sake of saying, 'This drug should not exist.' However, they do not understand and relate to the reasons why it should not be used. It is time that we made sure that that was clearly a message in the community. Some figures have been quoted during this debate, indicating that 35 per cent of young people within certain age groups have used marijuana in the past 12 months; that may involve rare use. The evidence indicates that the level of marijuana use in South Australia is not that much greater than the level in other states of Australia. I have heard statements made that the level of use in this state is much higher than that in other states, but the figures do not show that. The official figures show that the use here is about the same as or marginally above that of the rest of Australia. It is important that we get the message through. If we in Australia are to be a leader in the fight against tobacco, equally we should be a leader in the fight against the use of marijuana, as we are in other areas such as diet, exercise, and so on.

A number of members made the point that this should be part of a more comprehensive approach. Let me assure the House that it is part of a more comprehensive approach. Just because we introduce a bill here does not mean that that is where the matter will stop. In fact, it is our intention to introduce a number of other measures. The second reading explanation talks about the number of plants, and the Controlled Substances Advisory Council has already made a recommendation to me on that—to reduce the number of plants dealt with by way of expiation from three to one. So, we are effectively saying—and perhaps some people misunderstood the legislation or the present position—that any hydroponically grown marijuana is potentially a criminal offence that could go before the courts.

However, at present, charges involving smaller quantities of marijuana can be expiated. This measure will remove the ability to expiate the offence. Therefore, if you grow marijuana hydroponically, be assured that you will end up in the courts, with a conviction against your name. That is the message we want to get through. However, we as a community have a job to make sure that we explain to people why we are taking that tough stance: because of the potential consequences—particularly involving health—on our community. We need to understand that lives can be destroyed by the constant use of marijuana. I urge members to allow this bill to proceed through the committee stage without undue delay.

Bill read a second time.

In committee.

Clauses 1 and 2 passed.

Clause 3.

Mr LEWIS: This is where I can ask questions about the insidious way in which organised crime has taken over in the production of marijuana under high tech—if you want to call it that—circumstances. Without putting too fine a point on it or going into any great detail at all, will the minister make inquiries with the Minister for Education and the ministers responsible for the Licensing Court administration and management of other government properties as to why they have allowed organised crime to get involved in taking over government property in Iron Knob? We find that that has destroyed what would otherwise have been a community that had a past and a future, because of the manner in which those people outside Iron Knob, antagonistic to its reasons for having been there, have exploited cheap property from taxpayers where it has been disposed of as surplus to government need and given them all the infrastructure they need, the isolation they crave and the circumstances they desire as well to get into it and make it a hostile environment for those people who have chosen or might have otherwise chosen to remain there and make a mess in the manner in which they have. 'Artificially enhanced cultivation' is the banner under which I put that question to the minister, not wishing to embarrass him or the government, but I believe it ought to be addressed—and addressed quickly.

The Hon. DEAN BROWN: I am not aware of the circumstances at Iron Knob. I will certainly refer that matter to the Minister for Police and ask him to give me a detailed reply for the honourable member. The honourable member mentioned the Minister for Education. I suspect he may have raised that because there must be some property under the name of the Minister for Education.

Mr Lewis interjecting:

The Hon. DEAN BROWN: There was.

Mr Lewis interjecting:

The Hon. DEAN BROWN: It has been sold. It may be a former education department property, but when properties are sold by government they go across to the Land Management Corporation and are then sold by it on the open market, either by tender or by auction. So, he may not be aware of even who the purchaser is of that property. However, I will

refer the question to him and ask both those ministers to come back to the honourable member with a considered reply.

Mr LEWIS: I thank the minister for that and assure him that my reason for raising the matter is so that we do not see the same sort of thing happen in other communities that were established during the last century (and we are now in the 21st century) and are considered—not only because they are depopulated but also because they are isolated from commercial ventures—to be redundant. However, nonetheless the government owns property, and it seems to be willing to dispose of it to the highest bidder or anyone else who can come along with a seductive proposition. I do not want to see that happen elsewhere in my electorate or in any other part of the state where it is possible.

I thank the minister for his assurance. I know that the opposition would share my concern, and so would the other Independent members, if we allowed government property in these circumstances where we have depopulated these communities to be sold off simply to the highest bidder without investigating the purposes to which they wished to apply them, in which case we would deserve the disdain with which the rest of community treated us in a few years' time when they realised how the property had been used. What is more, we will have—unwittingly perhaps but nonetheless with the responsibility to have made the decision—contributed to things which are worse than leaving the property there in government hands to simply moulder quietly away without giving anyone who has nefarious designs upon it access to it.

The Hon. DEAN BROWN: I appreciate the point that has been raised by the member for Hammond. I indicate to him and other members of the committee that, if members suspect that marijuana crops are being grown in their electorate, they should take the matter up with the Minister for Police. The member for Price has spoken to me about possible government property which might come under my control and which could be used for the production of marijuana. I appreciated his concern and I was able to get the authorities onto that matter.

Another matter was brought to my attention in terms of the production of marijuana. I spoke to the Police Commissioner about that, and a significant number of arrests resulted from the inquiry that I received. So, if members are suspicious or if people in the community say that they believe that marijuana is being produced, they should speak to the Minister for Police and ask that action be taken. I commend the member for Hammond and the member for Price, who have already raised matters that needed investigation.

Ms RANKINE: Further to the line of questioning from the member for Hammond, will the minister say what is the policy of the government in relation to hydroponic equipment which has been confiscated from people who have been growing marijuana? It is my understanding that there have been many instances where equipment has been confiscated, disposed of at government auctions, and then confiscated again at another location. It is also my understanding that there are huge amounts of hydroponic equipment currently stored at the DSTO at Salisbury. What is the government's intention in relation to that equipment?

Members interjecting:

The CHAIRMAN: Order!

The Hon. DEAN BROWN: I will have to ask the relevant ministers what has occurred in the past with this equipment and what their intentions are in the future. As the honourable member would know, any equipment which is used for an illegal purpose becomes the property of the government and can be used or destroyed as the government wishes. I do not know whether it is destroyed, but I will refer the question to the minister and obtain a reply and, if need be, the minister can reconsider the policy in terms of what is done with the equipment. If the honourable member has any evidence that equipment is simply being put back onto the market and sold, she should raise that matter with the Minister for Police. I stress that this matter does not come under my portfolio. I am the minister responsible for the Controlled Substances Act. That is why I am unable to give her an answer, because I have no day-to-day responsibility in that area, and I do not know the details.

Ms RANKINE: I accept that this does not come under the minister's responsibility, but this evening and last night we have been subjected to some amazingly sanctimonious speeches from members opposite about their very hard stance on drugs, yet information that I am receiving from police officers is that government auctions have been selling this equipment—which is not illegal—and police have been getting it back in raids. Maybe we need to start licensing the government in terms of its sales of this equipment and perhaps government members need to be accountable for the words they utter in this House instead of spruiking forth on policies that are just being put in there to cause a war or a battle in this House which they did not actually get.

Clause passed.

Clause 4.

The Hon. DEAN BROWN: I should have mentioned during my second reading reply that the member for Elizabeth raised a number of specific questions about offences, etc. I have asked for that information. It will take some time to get, because it is specific and detailed information that she seeks, but I will bring back a reply.

Clause passed.

Title passed.

Bill reported without amendment.

The Hon. DEAN BROWN (Deputy Premier): I move:

That this bill be now read a third time.

Mr HAMILTON-SMITH (Waite): I rise to reiterate my support for this bill and to make some observations about the debate so far. The member for Wright referred to some sanctimonious moralising—I think that was the term she used. I must say that there has been a good deal of that on both sides, but particularly from members opposite. I want my constituents of Waite to understand the facts of this matter. The Labor Party stands before us united on this bill because the caucus decided that it would support the bill.

Ms HURLEY: On a point of order, Mr Speaker, I understand that in a third reading debate standing orders require that members stick pretty much to the substance of the bill as it comes out of committee rather than rehashing the second reading debate.

The SPEAKER: The deputy leader is correct. The member has delivered about his third sentence. I am not sure whether the honourable member understands this standing order—the chair certainly does—but I ask him to speak to the bill as it comes out of committee.

Mr HAMILTON-SMITH: The deputy leader does not like it because she does not want the people of South Australia to know that the Labor Party has had the whip cracked on this matter and therefore stands united in support of the bill. The deputy leader also does not want people to

know that in 1986 the Labor Party and the Democrats created the problem which this bill seeks to redress.

The SPEAKER: The honourable member must not stray into a second reading speech. The point is to summarise the bill as it comes out of committee. I ask the member to confine his remarks to that and not make a second reading speech.

Mr HAMILTON-SMITH: The bill, having come out of committee, will make it illegal to use hydroponics to produce cannabis. That is an important step to ensure that drug abusers do not start slipping down the slippery pole of drug abuse and descending from the use of marijuana into far more serious drug abuse. As I mentioned, the bill rectifies a problem that was created in 1986. It fits in with the 'tough on drugs' stand which the government supports and promotes. As members opposite made their contributions, it became apparent that very few of them oppose the bill. If the whip had been cracked the other way, the committee may have been very different. If the caucus had decided to oppose the bill, it would have been very interesting. In particular, during the debate—

Mr ATKINSON: I rise on a point of order, Mr Speaker. The member for Waite is being hypothetical about the Parliamentary Labor Party's approach to the second reading vote on the bill. Surely, that cannot be relevant during the third reading debate.

The SPEAKER: I am not sure whether I uphold the point of order. I am more concerned that the member stick to summarising the bill as it comes out of committee and not drift back into making a second reading speech.

Mr HAMILTON-SMITH: It has been my understanding that the practice during third reading speeches has been fairly reasonable in respect of freedom to canvass the bill as it has come out of committee.

The SPEAKER: Order! I am trying to confine the debate to the bill as it comes out of committee, and the chair does not want to keep having more points of order called tonight. If you can restrict it to as it comes out of committee and not get into broad areas of debate.

Mr HAMILTON-SMITH: Very well, Mr Speaker, but I just make the point that, clearly, the Labor Party does not want its position on this to be fully made available to the public.

Bill read a third time and passed.

JOINT COMMITTEE ON IMPACT OF DAIRY DEREGULATION ON THE INDUSTRY IN SOUTH AUSTRALIA

The Legislative Council informed the House of Assembly that it had passed the following resolution to which it desired the concurrence of the House of Assembly:

> That, should the Joint Committee on Impact of Dairy Deregulation on the Industry in South Australia complete its report while both houses are not sitting, the committee may present its report to the Presiding Officers of the Legislative Council and the House of Assembly, who are hereby authorised, upon presentation, to publish and distribute that report prior to the tabling of the report in both houses of parliament.

AQUACULTURE BILL

In committee.

(Continued from 13 November. Page 2716.)

Clause 14.

The Hon. R.G. KERIN: Just before the debate was adjourned before dinner last night I did undertake to the member for Hammond to answer a question which he asked about roeii abalone. As the member for Hammond would appreciate, the aquaculture industry is a young industry with a number of emerging sectors, and the bill does provide for a more responsive approach for new and innovative aquaculture operations, and in the future that could include roeii abalone. In particular, the bill includes the use of pilot leases and licences to allow for the uptake of new species and technologies, and this approach will be further supported by an integrated policy and licensing framework.

Clause passed.

Clauses 15 to 21 passed.

Clause 22.

Ms HURLEY: Clause 22 is part of Part 6, which covers the leases for aquaculture, and this is a particularly important part of the bill, because this is where the lease areas for the undertaking of aquaculture are applied, and is particularly critical in terms of environmental monitoring and also how aquaculture proceeds. Clause 22 deals with the general process for the granting of leases and provides for the application for an aquaculture lease. If the minister decides not to grant an application for an aquaculture lease the minister must provide the applicant with a written statement. This is a very key issue for the conservation and environmental movement, because that provides for some sort of right of appeal for someone applying for a lease, but not someone who is opposing a lease.

This forms part of the whole question of whether people who are opposing aquaculture leases have sufficient appeal rights against that process. So why is there a provision in here to provide a written reason for a rejection of a lease but not a written reason, if required, for the granting of a lease, if someone else opposes it? Basically, as I understand the process, if the minister decides not to grant an application for an aquaculture lease, the applicant can ask the minister to give a written statement of the reasons for that decision. What I am asking for is, if someone opposes an aquaculture lease being granted and yet the minister grants it, why can't the person who opposes it not apply to the minister for a written reason as to why that lease is approved?

The Hon. R.G. KERIN: I take the point that the Deputy Leader is making. On reflection, it is up to the Crown to say yes or no, and she is correct that, if in fact the aggrieved is the applicant we will provide a reason in writing, and I think I can undertake that if an appellant requires a written reason then, on writing to the minister, the minister should reply and give the reasons why it actually has been granted.

Clause passed.

Clause 23.

Ms HURLEY: If the aquaculture lease is then granted there is an allocation process approved by the ATAB, and the applications may only be made following the public call for such applications and in accordance with the process so approved. Can the minister outline how that public call will be made and how the process will be gone through for the approval?

The Hon. R.G. KERIN: The process there would be that the Tenure Allocation Board would set the criteria and the policies would follow those criteria. It would then be advertised for any possible applicants to see. They would then apply and it would go back to the Tenure Allocation Board to decide how, within the criteria, they would choose a successful applicant.

Ms HURLEY: Can the minister explain how that lease would be advertised? Is this envisaged through a web site or newspaper advertisements, or both? How would it be achieved?

The Hon. R.G. KERIN: At this stage, it would be through newspapers. It may be on a web site in the future but at the moment I think that, in fairness to all applicants, the newspaper would be the better medium.

Clause passed.

Clauses 24 to 26 passed.

Clause 27.

Ms HURLEY: This clause deals with the pilot leases and provides that a pilot lease may only be granted in respect of an area comprising or including state waters outside an aquaculture zone—so we are dealing with new areas outside the zone, and I understand that there is some concern that this means that the Environment Protection Authority would not be involved in approving that pilot lease. My understanding was, and I think the minister addressed this in the second reading debate, that that would occur through the licensing process but I would appreciate a bit of elaboration.

The Hon. R.G. KERIN: The EPA needs to approve the licence. Without the licence there would be no activity. There is no point in having a lease without the licence.

Clause passed.

Clauses 28 to 33 passed.

Clause 34.

Ms HURLEY: This involves the conversion of pilot leases to development leases. If we recall clause 27, the pilot lease is granted for an area outside an aquaculture zone, so when that pilot lease is converted to a development lease there is again some concern that this may be a way of putting in additional aquaculture zones without the proper public consultation period. The minister may convert a pilot lease on application. Can the minister explain whether it is possible that a pilot lease outside an aquaculture zone may be converted to a development lease and, therefore, make it an aquaculture zone without the proper consultation?

The Hon. R.G. KERIN: The advice on that is that for the conversion to occur the process has to be gone through for the creation of a zone—that is, the planning process. Without that occurring, that conversion cannot take place.

Ms HURLEY: The minister may approve the conversion of a pilot lease to a development lease if an application is made not more than 60 days before the end of the last term for which the pilot lease may be renewed. I understand that there is some concern within the industry that that 60 days is too short a period and I think that the reason for that is evident. If a person has loans and a business plan, that two month period, when you are uncertain as to whether your aquaculture project may go ahead, creates difficulties for the business itself. I would appreciate a response from the minister to that.

The Hon. R.G. KERIN: The short answer to that is that 60 days is purely an administrative measure. It does not mean that the applicant, with the minister on side, could not take, say, 12 months to actually undertake the development.

Ms HURLEY: Does that mean that you might make an informal application 12 months before but the formal application could only go in 60 days before?

The Hon. R.G. KERIN: That is correct.

Ms HURLEY: This is as good a place as any to bring this matter up: there is no mention throughout the bill of subleasing. Is that possible under the criteria?

The Hon. R.G. KERIN: Yes, that is possible, and the way that is done is by having a number of different licences over the same lease area. That would be how you sublease.

Clause passed.

Clauses 35 and 36 passed.

Clause 37.

Ms HURLEY: This clause deals with the conversion of development leases to production leases. These production leases are for up to 20 years and I understand that there is some concern about the possible different nature of the leases, where you might have some fixed infrastructure—for example, oyster farms—as opposed to fin fish operations, where you would just have portable sea cages. I believe that 20 years or a lesser period is specified in the lease. Can I confirm that this is to take account of the different farming and species that might be involved in a production lease?

The Hon. R.G. KERIN: I take it that the deputy leader is asking more about flexibility in terms of why less than 20 years may apply. Where that would be brought into vogue is if, in fact, it were felt that there was a specific reason for that, whether it involve a particular species in the area, or possible development within less than 20 years in that area; it is not so much to do with the type of farming that will be practised, but more to give flexibility in case there are special circumstances.

Clause passed.

Clauses 38 and 39 passed.

Clause 40.

Ms HURLEY: I want to comment briefly on clause 40, and the need for this sort of emergency lease. It might be necessary for a farm in the short term to be able to have an area which it can use. It is pleasing to see the term of the lease is only three months—therefore it is a short-term emergency situation—and that the Environment Protection Authority is notified immediately of the grant of the emergency lease, which should provide the correct monitoring and control of this sort of lease.

Clause passed.

Clauses 41 to 49 passed.

Clause 50.

Ms HURLEY: This clause deals with the actual licences. I have a question regarding the 'public notice of the application or proposal published in a newspaper' and inviting interested persons to make submissions. There is no minimum period in which submissions can be received. Why is that not so? It is normal in these provisions to have a minimum period in which submissions can be received to allow people time to evaluate the application and to respond.

The Hon. R.G. KERIN: That would be by regulation and it would be picked up in the advertisement, probably something like 30 days.

Clause passed.

Clause 51 to 59 passed.

Clause 60.

Ms HURLEY: This clause deals with appeals. Why are appeals of this nature, regarding fisheries and the environment in which aquaculture is conducted, not made to the Environment, Resources and Development Court rather than the Administrative and Disciplinary Division of the District Court? It would seem logical to refer these sorts of decisions to the ERD court because of its expertise in dealing with this issue. We know the ERD court has already had considerable experience in dealing with the case where the government botched the aquaculture leases in Louth Bay. I think it would be safe to say that the environment and conservation move-

ment would certainly be much happier with a reference to the ERD court. I cannot see, indeed, why the industry might have any difficulty with this, either.

The Hon. R.G. KERIN: The Administrative and Disciplinary Division of the District Court would look after appeals against licensing; development appeals would still go to the ERD court. It is an administrative issue, but the two different sections, that is licensing and development, go to different courts.

Ms HURLEY: I refer the minister to subclause (4) in relation to appeals. In this instance, if the person making the application is unhappy with the decision, that person can ask the minister to state the reasons in writing; but someone opposing an application cannot similarly require a reason in writing why the licence was granted. I seek a similar assurance from the minister that that would be possible.

The Hon. R.G. KERIN: The subclause relates back to the last clause. If someone was to write to the minister asking for the reasons, I think he should answer it. To make it a matter of course may bog things down. I think in fact if someone was to write to the minister he would answer that letter.

Clause passed.

Clauses 61 to 64 passed.

Clause 65.

Ms HURLEY: This deals with the membership of the aquaculture advisory committee. It has been noted that it has a membership of 10, of which only one 'must be a person nominated by the minister who has, in the opinion of the minister, appropriate practical knowledge of and experience in environmental conservation and advocacy on environmental matters'. It seems to many in the area that one out of 10 on an aquaculture advisory committee is an imbalance and that there should be a greater representation of that important sector.

The Hon. R.G. KERIN: I think it is worth noting that the AAC is not a voting body but, rather, an advisory body. The deputy leader referred to paragraph (c), which provides for a person engaged in the administration of the Environment Protection Act. Paragraph (e) refers to someone with knowledge and experience in research and development relevant to the aquaculture industry. I think it is a matter of balance. It is not a voting committee. I know we have gone down the track before with some of the various bodies. Having been out on consultation with this act for a long time, I know that there has been an enormous number of requests in relation to who should have more representation on each of the bodies. What we have come up with is a balance. We have had an enormous number of requests from different bodies to be represented on everything. We feel this is an appropriate balance.

Clause passed.

Clauses 66 to 71 passed.

Clause 72.

Ms HURLEY: This clause deals with the functions of the aquaculture tenure allocation board. Its functions are to advise the minister on any matter relating to the allocation of tenure for aquaculture; in other words, it seems that the function of the ATAB is merely to advise the minister. Is it the minister who makes the final decision on tenure? If so, is that, in effect, too much different from the current circumstance where the minister has say over which people get which plum grounds?

The Hon. R.G. KERIN: The issue is quite different from the current situation. What the Deputy Leader says is true. Under the new system with its competitive allocation, the tenure board basically does an assessment of the various applications for tenure. It is then for the minister to make a determination. That is a fair bit different from the current situation.

Ms HURLEY: Part of my support for the bill is that this will theoretically be a much more open and transparent process. Applicants for tenure apply in good faith, according to the rules set out by ATAB. They might find that their application is overturned by the minister in favour of someone else who, according to the decision of ATAB itself, does not meet all the requirements. It may be given an inside run by the minister. That does not seem to be equitable treatment.

The Hon. R.G. KERIN: I hear what the Deputy Leader says, but this bill puts a whole new level of scrutiny into the way that aquaculture tenure allocations are made. I do not think you can just leave it to a board to make the allocation decision. Certainly, it will be up to the minister to have a good look. This is a pretty transparent way of doing it in that there is a board which is going to have a look at all the applications. But, at the end of the day, it is a bit hard for ministers to fob off their end responsibility, that is, making decisions and arbitrating on the various applications.

Clause passed.

Clauses 73 to 79 passed.

Clause 80.

Ms HURLEY: This clause deals with the public register and specifies what the register must contain. It is a significant advance on the current requirement, as are most of the provisions. However, the Environmental Defenders Office suggested that the public register should be expanded to include the minister's reasons for decisions regarding leases and licences, the EPA's reasons for decisions regarding leases and licences, details of any enforcement action taken under the act, and details of receipts and expenditure from the Aquaculture Resource Management Fund. The reason for this is that the register needs to include sufficient information to provide the public with the confidence that good decisions are being made. Certainly, I think the more information that is available to the public, the better. I ask the minister to comment on including that extra information.

The Hon. R.G. KERIN: It does not surprise me that the Environmental Defenders Office might ask for that, but the reasons for refusing a lease or licence to a person or a company really does come down to the same things that you would have with a credit card application or whatever. Some of these will come back to an applicant's lack of ability to actually finance the development for each stage. If we are to maximise the value of the aquaculture industry, we cannot have people without the wherewithal sitting on leases that are not going to be developed. There is some sensitivity in putting that level of information on the public register because information tendered by applicants would have to be made public, when the applicant might prefer that the reasons for refusal of a lease or licence remained confidential.

Clause passed.

Clauses 81 to 89 passed.

Clause 90.

Mr HANNA: I have a question about the interaction of clauses 11, 16, 17 and 90 or, to put it another way, a question about the circumstances in which clause 90 might operate. Let me first say that it seems an extraordinary step to create, in clause 11, an offence with a fairly heavy penalty, of which parliament cannot conceive. In other words, we are leaving it up to the minister to come up with aquaculture policies

which might create offences that we have never heard of and which are subject to the penalty of a maximum fine of $35 000, as set out in clause 16. The Premier might wish to comment on that step and how unusual it is. Clearly, there is a different offence set up under clause 17, which provides that it is an offence to carry on aquaculture without a licence and which has the same penalty. So there are two kinds of offending to which I draw the Premier's attention: failure to adhere to a policy and failure to adhere to carrying on only with an appropriate licence. Can the Premier explain the interrelationship, if there is any relationship, between those two types of offending? I will then have questions about how clause 90 might operate.

The Hon. R.G. KERIN: The short answer is that, while there is some difference between clauses 16 and 17, clause 17 provides 'except as authorised by an aquaculture licence': basically, that involves the breaking of a licence condition. It is felt that there is very little difference. The mandatory provisions would be reflected in the licence conditions without being specific and without being spelled out in each individual licence. So, their being part of the policy as mandatory provisions would automatically make them licence provisions within that zone.

Mr HANNA: Clearly, clause 90 makes it easier for the prosecuting authority to prove certain matters. Can the Premier expand on which of those matters are relevant to proving prosecutions for breach of licence conditions specifically and which would be more relevant to clause 16 breaches of policy?

The Hon. R.G. KERIN: I do not know if there is any easy answer to that, because the provisions run across the two. Given the individual aspects, they could apply to either. They apply pretty much equally to both. It will come down to evidence as to whether or not there is a breach of the mandatory provision or a breach of something that is set out specifically on the licence. With the aquaculture activity, if it is picked up as a policy, in that zone it automatically makes it a licence condition to be carried out. That is one thing, and that would cut across all these things. Specifically, beyond that, on some licences conditions will be notified and if they are breached they will be here. So policies will pick up on certain things that are a no-no for that whole policy zone, whereas there may well be additional licence conditions put onto individual licences for specific reasons.

Mr HANNA: I am allowed just one more question. The reason for my difficulty in understanding those offence provisions as a whole is that it is difficult to imagine just what the clause 11 offence will be. Are we talking about a general regulatory framework, for example, provisions which prohibit certain kinds of pollution in the water? Are we talking about general provisions that protect the ecosystem in an area in which aquaculture is to be carried out, which might be specific to an entire zone, as opposed to the area for which a licence might be granted? Can the Premier give more tangible examples of what I see as a blank cheque provision in clause 11 for making out offences? It would then be easier to understand.

The Hon. R.G. KERIN: I will give some examples—and several things come to mind. One issue may well be the depth of water that you need to be in. It could either be a mandatory provision or part of your individual licence, depending on where you are. It may be the depth that is required between the bottom of the cage and the seabed. It could be either picked up as a mandatory provision within a policy area or, for a specific reason, where that was not picked up in there, it may well be that it is a licence condition; or, as the member correctly identified, it may well be not so much pollution (because that would not normally be allowed, full stop): it may be certain types of feeding systems or anchorage or a range of different issues that can be picked up in the whole policy for an area, or they may be imposed as a licence condition. If one looks across the whole range of licences throughout the state, in some policy zones, one would have a set of those conditions which may be picked up for a whole policy zone or, in a policy zone where that is not a mandatory condition, it may well be included on an individual licence for a specific reason.

I suppose the short explanation is that the types of issues to be picked up by clause 90 may well be picked up in either of those two areas, but it may well be very much the same type of provisions or licence conditions that apply between the two. It is not as if one particular type of thing would be a mandatory provision and something else would involve a separate licence condition. It depends on the zones; it depends upon the types of activities that occur in individual licences.

Clause passed.

Clause 91, schedule and title passed.

Bill reported without amendment.

The Hon. R.G. KERIN (Premier): I move:

That this bill be now read a third time.

I would like to reiterate what I said yesterday, when I thanked members for the way in which we have been able to deal with this bill. It is an enormous bill, and it is very important to the future development of a lot of areas of South Australia. I thank very much Ian Nightingale, Michael Deering and all the officers involved in this matter who have done a terrific job. It was always going to be very difficult. As I said yesterday, I thought that it was important to have a bipartisan approach with respect to this bill and to give some certainty to the aquaculture industry because of the level of investment that is needed in that industry, and those people have worked very hard, with all stakeholders, through legislation and a set of regulations that are acceptable across the board.

It is not always possible to satisfy everyone on every point, but I think that a great level of satisfaction has been reached, and it has been achieved only through hard work. I thank the deputy leader and everyone else who has been involved in this measure. Most people have spent a significant amount of time on this bill, and I appreciated very much the bipartisan approach that we have seen from both chambers to date. I think it shows what happens when we really work hard at something and take a consultative approach. This has taken a long time, but it was important that it be brought into this place after a level of agreement. I thank the deputy leader and everyone else who has made a contribution to the bill. I look forward to its passing in the other place and to its implementation.

Bill read a third time and passed.

SITTINGS AND BUSINESS

The Hon. M.H. ARMITAGE (Minister for Government Enterprises): I move:

That the time for moving the adjournment of the House be extended beyond 10 p.m.

Motion carried.

WORKERS REHABILITATION AND COMPENSATION (MISCELLANEOUS) AMENDMENT BILL

In committee.

(Continued from 30 October. Page 2577.)

New Clause 2A.

The CHAIRMAN: I remind the committee that we are currently dealing with a new clause 2A, which is an amendment moved by the member for Lee. Would members of the committee be aware that the minister also has foreshadowed an amendment, a new clause 2A. It is the intention of the chair to provide the opportunity for the debate to continue on the introduction by the member for Lee of new clause 2A and, when the minister responds, the minister should do so in regard to the amendment that he wishes to put before the committee at this stage.

Mr McEWEN: Firstly, I apologise to the minister—and I am speaking on the amendment that is standing. I indicated, when I was speaking to this amendment last time, that I believed I had written to the minister but that I would check my records. I now need to apologise to the minister. It was to the Premier that I wrote on 19 December 1997. That letter was acknowledged by his chief of staff on 23 December 1997, and that is the end of the paper trail in relation to that question. So, four years later that question still remains unanswered. I then wrote—

Mr Clarke: You don't get paid for four years.

Mr McEWEN: I will get a birthday card on that one in the near future. I then wrote to the Treasurer on 23 February 2001 regarding the related matter. He then replied to that letter and referred that correspondence to the Minister for Workplace Relations and, again, that letter still to this day remains unanswered.

Let me again briefly remind the House of the two issues—which I think we are now attempting to resolve, not only through what I understand is an amendment from the minister to the amendment from the shadow minister, but also the amendment that I have lodged to fill in the loop. The two deficiencies in the act are that, on the one hand, an employer has been forced for years to pay a contribution on behalf of an employee who never had any coverage. Basically, we are extracting from an employer moneys for a benefit that could never accrue to the employee. That is just taking money under false pretences and I hope that, if this amendment is successful, the minister goes as far as to indicate that WorkCover will reimburse employees who have been inappropriately charged, because it is money that should never have been collected. I understand that WorkCover Corporation has worked through that, and it has indicated to me that it will implement a credit system to ensure that either future payments are lessened or, in some cases, a cheque changes hands.

The second part of the problem has been where the employer has had to pay for the same employee in two jurisdictions. That was the issue about which I wrote to the Treasurer in February this year, where a forest contractor won a job in Victoria and, for the month that his employees were in Victoria, he had to put in a monthly return and pay WorkCover in Victoria. Then, when he put in his annual return in South Australia, he obviously had to double count: again, he was paying twice. This is the other part of the anomaly. On the one hand, the employer was paying and getting no service; and, on the other hand, the employer was paying twice to get a service.

I understand that both those anomalies will now be rectified. So, I support the approach from the shadow minister or, more importantly, that from the minister in amending the shadow minister's amendment to bring us into line with the national template. I acknowledge that the minister will bring us ahead of where we are going nationally. It is important, because Australia-wide we should have a common practice not only with regard to the way employers contribute to a scheme—the territorial amendments—but also to ensure that, once an employer has contributed, the employee is guaranteed to have coverage. Hopefully, the rest of Australia can move into line. To that end, I am confident that, by the time we finish this debate tonight, we will have resolved these two outstanding problems.

The Hon. M.H. ARMITAGE: First, I assure the member for Gordon that his apologies are not needed. There is absolutely no way we can all remember to whom we addressed correspondence if it was done a long time ago. I do not regard that as a heinous crime worthy of apology. Nevertheless, it is now on the record. At the risk of reiterating things that were said last time, if my amendment is accepted it will amend legislation with regard to the national template, and South Australia has been at the forefront of attempting to bring that to the attention of ministers around Australia. As the member for Gordon quite correctly said, if this amendment were to be accepted tonight, it would put us in the vanguard around Australia. As I indicated to the House the last time this measure was before it, we have been attempting to get national legislation to cover some of these anomalies.

The government is moving its amendment because we believe that, given the circumstances, it is expedient to incorporate the current national solution into proposed new section 6. So, hopefully when the national solution comes into place there will be an easier transition. We also believe that any amendments to proposed new section 6 will be interim changes until the national solution can be implemented, which we hope still will be early 2002. There is every indication that that will be the case. Indeed, I was informed there were some potential concerns—albeit minor—about some of the intricacies of the member for Lee's amendment.

The amendment has been prepared in consultation with WorkCover staff who have been leading the charge in the national scenario in developing the national solution to the cross-border coverage problems. The effect of the amendment is, if you like, to mould the current tests under proposed new section 6 with those proposed in the new national system. This provides a threshold of connection consistent with what is currently in place. Very importantly, it also creates new tests that are consistent with the national proposals.

Basically, the amendment covers a worker under the South Australian scheme when the worker spends 10 per cent or more of his or her time working in South Australia and nowhere else and where the worker spends 10 per cent or more of his or her time working in two states and is based in this state (that is, lives in South Australia) or travels between somewhere in South Australia and his or her employment. It also covers the employer's place of business with which the worker's work is most closely connected in South Australia and the worker spends some time working in South Australia and the employer pays a levy in South Australia. However, the worker is not covered in any other state unless a connection is made between the worker's work and the state using the factors that are provided in the draft amendment. All that

is extraordinarily complex; I make no bones about it. Indeed, if it were not complex, perhaps some of the recalcitrant states may have agreed to this approach a little earlier.

I am informed to the best of my advice that these amendments will obliterate the opportunity for cross-border coverage dilemmas to occur. I understand that the member for Gordon's amendment will work to ensure that, where employers pay a levy in South Australia, their workers would be covered here and, very importantly—and this is the encapsulation of the member for Gordon's concern—employers may elect not to pay a levy in South Australia if they are required to pay it elsewhere.

The only other nuance that I wish to identify to the committee is that, having looked at these various cases which have unfortunately become part of mythology over the past five years, and recognising that in a number of other instances, we believe that clearly the parliament intended certain consequences to flow from the enacting of the legislation. It would appear as though some drafting error has led to this on the basis, I am informed, that the previous section 6 did not seem to have these problems. I will be moving another amendment which will make the date of operation of the cross-border provisions under a transitional clause retrospective on the basis that I do not believe that parliament intended that workers would be not covered. I am happy to answer any questions about my amendment, that of the member for Lee or whatever.

Mr WRIGHT: Mr Chairman, I seek your guidance with regard to procedural matters. I am not sure whether the minister has moved his amendment.

The CHAIRMAN: Order! As the chair pointed out earlier, it is appropriate to debate the amendment that is currently before the committee in the knowledge that the minister has foreshadowed a further amendment. When a vote is taken on the amendment that has been moved by the member for Lee, and that vote is successful, that stands; if it is not successful we will then move across to the amendment moved by the minister.

Mr WRIGHT: Is it not possible for the minister to move an amendment to my amendment?

The CHAIRMAN: That is entirely in the hands of the minister and yourself. However, as we are already debating the amendment, it would be a lot simpler to move down the track that I have already suggested.

Mr WRIGHT: I am perfectly happy to continue with my amendment. This issue would never have been raised unless the opposition had raised it. So, we will proceed with our amendment on that basis. Our amendment stands in its own right. The government has done a series of backflips on the amendment put forward in this parliament in good faith on behalf of workers in South Australia and/or their families Australia-wide with regard to how they will be treated by this system. When this amendment was initially put forward by the opposition, the minister made claims that this was not workable. Of course, his position then changed when he realised that the Independents had a different view from the government. I thank the Independents for the role that they have played in dealing with this amendment. It has been raised in good faith by the opposition on behalf of workers and their families. The government has ignored this issue. Let us not forget what this issue is about.

This issue highlights the meanness of this government and WorkCover because they have applied this act in a way which was never intended. Let us not forget the two cases in the Supreme Court in 1998 which I have highlighted. Despite the fact that the employers were based in South Australia and paying a levy to WorkCover, it was found that no nexus existed for the Smith (Keating) case and the Selamus case because of these unintended consequences of the current act.

The government has done a backflip. Let us not forget that, if the Independents had not been prepared to support the tenor of this amendment, it would not have proceeded as far as it has. If and when we refer to the government's amendment, I am happy to speak to it in more detail, but let us not ignore the reality of why and how we have reached this position. This has happened because this government, since 1998, if not before—because it may well have known about it before the Supreme Court decisions of 1998—has realised, at least since those two Supreme Court decisions, that the current act is negligent and has cheated workers and their families out of their due rights.

This amendment moved by the Labor Party was initially dismissed out of hand by the minister. The minister tried to say that from a technical point of view it was not workable but then he realised that the Independents were supporting the tenor of it because of the fairness, equity and total reasonableness of this amendment. This is called policy. Former Premier John Olsen used to stand up in this parliament regularly when he was Premier of South Australia and ridicule the Labor Party because it did not have policies. I hope he is listening, because this is policy; this is agenda setting. It has been done by the Labor Party in opposition with the support of the Independents. I acknowledge their role and thank them for it, because without their support we would not have got as far as we have. We are in this situation tonight only because the Independents saw that this amendment was fair and equitable and should be proceeded with—and they deserve to be acknowledged.

So, I will proceed with the amendment put forward by the Labor Party opposition highlighting good policy initiative. That is what has been brought forward. The minister might laugh because he is a dud who is on the way out. Just like John Olsen, he is on his way out through a revolving door. He could not even stand for his own seat to try to defend Adelaide; he had to move base to try to get another preselection. Just like his former Premier, he is yesterday's man. He and John Olsen are yesterday's men, never to be remembered.

The ACTING CHAIRMAN (Hon. G.M. Gunn): Order! The member is currently speaking to his amendment. He has been given a great deal of latitude.

Members interjecting:

The ACTING CHAIRMAN: Order! He is now starting to refer to members by name. I suggest he relate his remarks to his amendment.

Mr WRIGHT: I am always happy to be guided by your ruling.

Mr Clarke: When he is in the chair.

Mr WRIGHT: Especially when he is in the chair. This amendment is a very good amendment. It addresses a critical issue. It has been picked up in the dying days of this government by a minister in a revolving door on the way out of parliament. If nothing else, the member for Adelaide (the Minister for Government Enterprises) may, in his dying days, in his last session of parliament, finally and ultimately be remembered for doing something good for workers, something which will put some fairness back into the system. It is a pity and a tragedy that he did not have the character and the courage to do it four years ago when it came to public attention. The government failed to do so because it does not care about workers and their families. If it did, it would have

brought forward its own amendment about this issue, which is so unfair and unjust and which stands as a beacon, a testament to the meanness of this government. I am delighted to support this amendment.

Mr McEWEN: It would be a pity tonight if we had to defeat the amendment standing in the name of Mr Wright MP, but the fact remains that his amendment has been further improved. The amendment before us tonight has been further improved. That further improvement, because it now moves closer to cross-border uniformity, which is a goal towards which we should be working, makes it the better of the two amendments. We must give credit to the shadow minister for progressing the debate this far, but now, with the opportunity to take further advice, his amendment has been further improved. I believe that the best thing we can do now—and I ask the shadow minister to consider this—is for the shadow minister to take credit for what he has done and withdraw his motion simply to allow us to vote on the improved—

Mr Wright interjecting:

Mr McEWEN: That's what we are trying to do.

Mr Wright: No, you are asking me to withdraw.

Mr McEWEN: I think the shadow minister was involved in another conversation and has not followed what I said. I acknowledge and give credit to him for what he has done, but I say that if the shadow minister does not want his amendment defeated—and I do not believe that would be a positive thing to do—the way to get around it is to acknowledge that his amendment has been further amended. If he withdraws his amendment we will deal with the amendment standing in the name of the Minister for Government Enterprises and we will give due credit to the shadow minister for all the good work that he has done.

That is the way I think we should proceed. I think that is a way to give him due credit for the work that he has done but, if we are forced to judge which is the better of the two amendments, his amendment has been further improved, so for the sake of the committee we will have to support the amendment of the Minister for Government Enterprises. I do not want to get to the point where we have to defeat the amendment, because that will reflect badly on the initiative that the shadow minister has taken in this place. I actually think that the best way to proceed is to acknowledge the good work of the shadow minister, ask him to withdraw his amendment and proceed with the minister's amendment reflecting on the fact that we have got to this point only because of the good work of the shadow minister.

Mr WRIGHT: That is wonderful advice, except that you told me today that you would force the government to amend my amendment.

Mr McEwen: Absolutely.

Mr WRIGHT: Well, now you are asking me to withdraw my amendment. That is two different things. I do not particularly care, but I am acting on advice that you gave me today, and your advice today like your advice yesterday was that the government should amend my amendment.

Mr HAMILTON-SMITH: On a point of order, Mr Acting Chairman, the member is arguing with the member for Gordon. I ask that you bring him to order and that he address his remarks through the chair.

The ACTING CHAIRMAN: I cannot uphold the point of order. On my understanding, the member for Lee is arguing the case for why his amendment should stand.

Mr WRIGHT: This is not something that we should have great concern about, because I was advised by the member for Gordon that the way to proceed with this was for the government to amend my amendment, and that can be done. That is a very simple exercise. I do not care whether the member for MacKillop or any other member stands up here and gives me credit. I do not care who takes the credit for this. I just want workers and their families to get a good outcome from this. But when I am advised by the member for MacKillop that the way, and the only way, that we would proceed with this would be for the government to amend my amendment, well that is the advice that I am working on. So if the member for MacKillop is good to his word it is now the responsibility of the government to amend my amendment, and I might say that if and when they do that I will support the government's amendment. So if the minister is big enough to amend my amendment, a simple exercise, we can avoid the dilemma that the member for MacKillop is talking about, and we can overcome what he advised me today, that his position is that the government should amend my amendment.

Mr WILLIAMS: On a point of order, Mr Acting Chairman, the member for Lee has been referring, I believe, to the member for Gordon and calling him the member for MacKillop, and I would like the *Hansard* record to be corrected.

Members interjecting:

The ACTING CHAIRMAN: The chair was aware of it; the chair did not think that it was a particularly great insult to the honourable member.

Mr McEWEN: Mr Acting Chairman, I seek your advice on moving a further amendment to the amendment standing in the name of the shadow minister, that is, in relation to deleting all the words in the shadow minister's amendment after 2A(a) and inserting all of the words in the amendment from the Minister for Government Enterprises from and including 2A(b). So other than the introductory sentence in the shadow minister's amendment I am replacing that with all of the amendment at this stage lodged in the name of the Minister for Government Enterprises.

The ACTING CHAIRMAN: Can I indicate to the member for Gordon that it is quite possible to do what he desires but I suggest to him that it is not wise to move amendments on the run. My understanding is that this amendment is attempting to get rid of one anomaly which is currently in the act and we want to ensure that we do not create another anomaly. We can proceed if the member wishes, but I suggest that it may be useful for the committee if he reported progress and got the amendment drawn up and circulated. However, it is in the hands of the committee.

Mr McEWEN: Sir, I have already taken advice from parliamentary counsel, and that advice is that there are no problems in simply doing as I have suggested.

The ACTING CHAIRMAN: Well, the chair is then happy to accept the amendment moved by the member for Gordon. Will the member formally move it so there can be no misunderstanding.

Mr McEWEN: I move:

That all the words in the amendment of the shadow minister, the member for Lee, from and including 2A(b) be deleted and replaced by those words in the amendment lodged on behalf of the Minister for Government Enterprises from and including 2A(b).

The Hon. M.H. ARMITAGE: I do not intend to react and have spittle coming out of my jaws and be pawing at the sand with steam coming out of my nostrils, like the shadow minister, because this is actually an important matter. Meetings were held in relation to this amendment, which everyone agreed was an important matter of principle and

where we had an agreed position, in the middle of last week, and, frankly, I am amazed that it would now be turned into a political bunfight. If anyone thinks that it is not a political bunfight, I just wonder what anyone would think about the events of the last 10 minutes here in parliament.

The member for Lee, because it is a popular thing to do, accused the government of meanness. Maybe he did not hear me say that, if we pass other amendments in my name, I am intending to make this amendment retrospective. Maybe he did not hear that, but how can anyone logically claim that the government is mean where we are in fact making the retrospectivity a feature of our amendments? It is not logical; it is a little bit silly. Politics is why it has been done, but it is not logical. But I do emphasise that in fact under the transitional provision to be moved in my name later this and another part of this bill will become retrospective, leading to making a farce out of claims that we are in fact being mean.

The member for Lee went on to claim that the government has done a number of backflips about this matter. At the risk of boring the house—and I was not going to do all this, because we actually went through it all last time, but I shall—I would like to refer the House to part of the contents of a letter that I wrote on 4 May this year to a colleague of the member for Lee, the Minister for Industrial Relations in Sydney, the Hon. John Della Bosca. In essence, I pointed out that the Workplace Relations Ministers' Council had agreed to a target date of December 2001 for the finalisation of this legislation, and I pointed out that representatives of workers' compensation jurisdictions met in February 2001 and, indeed, I pointed out to the Hon. John Della Bosca that this issue of cross-border coverage:

> . . . is on the agenda for the Workplace Relations Ministers' Council meeting on 18 May 2001. I consider it essential that all states and territories confirm their commitment to a national solution or put forward a workable alternative proposal.

We did not receive a workable alternative proposal; what we did receive was the fact of being turned down in our attempts. So for the member for Lee to indicate that this is a backflip is, again, not logical, because if his colleague had in fact progressed this matter with some of the urgency, which a lot of other ministers around Australia were in fact doing, we would have finished this now. This would have been a done deal nationally.

The member for Lee points out that we have, we believe, covered workers in South Australia. What we have not done, however, because of the recalcitrance of the member for Lee's colleagues, is actually cover workers in other states. That is why we are after national legislation. So at the end of the day this whole problem could have been fixed, at South Australia's instigation, if the Hon. John Della Bosca had not seen fit to play ducks and drakes. The reason why we would insist on our amendment is that we have been advised that there are instances where in fact the other amendments may not work.

I point out that we are still hoping for national coverage because workers from other states may not be covered. The government does not think it is right to make this retrospective. We think that certainly the South Australian parliament did not intend that; we do not believe that other parliaments did and we think that that ought to be fixed.

The other thing that I would say in canvassing support for the amendment moved in my name is that the member for Lee made a great political grandstand (and I am sure that we will see bits of this in newsletters distributed around his electorate, and so on) about how the government does not care for workers' families, that it should have done this years ago, and so forth. To that I would say, as I have said already, that we are intending to make the application of this retrospective. So that is taken immediately out of the case.

I reiterate, as I indicated in the debate last time, that if, in fact, the member for Lee had been so perturbed about this and if he did not know that the minister in New South Wales was being recalcitrant, he could have made an issue of this at any time of his choosing by introducing a private member's bill. He would have been informed by all his colleagues around Australia that the Liberal government in South Australia was leading the charge for national legislation. I do not believe that he did not introduce it because he did not think it was a valid thing to do; rather, he thought national legislation was going to be brought in. Certainly, we did, and I think that is why the member for Lee did not do that.

Mr Wright interjecting:

The Hon. M.H. ARMITAGE: No, it has nothing to do with private members' bills. It has to do with the fact that the member for Lee would have known from all the gatherings of the Labor Party spokespersons in this area, whether in government or opposition, that national legislation was just around the corner. We hope that our amendment is carried. We believe that it is a step in the right direction towards national legislation, and we would also hope that our transitional provision gets up so that it can be made retrospective.

Mr HANNA: This debate has got to the point where it should be said that credit should go where credit is due. Before I get onto the amendment that is before us, I wish to say, as it has been brought up in the debate, that the minister and the government deserve credit for the move to make this provision, should it be passed, retrospective. That is a good thing. Workers in South Australia should be grateful for that, and I will leave aside the gratuitous insults of the New South Wales government. That does not need to come into it.

In respect to the amendment of the amendment before us, I give it my wholehearted support. If it was not for the member for Lee coming in here on behalf of the Labor team and with the Labor team to press this issue on behalf of many workers who have been caught out because they work in more than one state, nothing would have been done. It is churlish to say that we could have brought in a private member's bill. There are many issues about which members on the Labor side feel strongly and on which they consider introducing a private member's bill to effect those desires, but, in nine cases out of 10, we do not bother because we know that the government has a knee-jerk response against our private members' legislation. So, rather than waste the time of the House and private members' time, we take advantage of bills brought in by the government. Fortunately, we should be able to amend this one to make it better. I commend the member for Gordon for doing the right thing by the member for Lee, Michael Wright, in using the form of wording which the minister has extracted from parliamentary counsel and essentially handing the baby to the member for Lee, who is the rightful father.

Mrs MAYWALD: I thank the parliament for its efforts in ensuring that progress was reported when this bill was last debated, and I also thank the minister for agreeing to take further advice to ensure that the amendment was improved. I would like to recognise the efforts of the member for Lee in bringing the anomaly to the attention of the House in the first instance, and I think that we are now seeing some sense prevail with the amendment by the member for Gordon

amending and joining both the minister's and the shadow minister's amendments together to ensure that the best result is achieved for those people in the community. I believe that this is an anomaly that needed to be fixed, and I think that by inserting the minister's amendment and amended words into the member for Lee's amendment we will achieve the best outcome.

I also want to add that it is fairly ironic that the minister and the shadow minister have still found cause to disagree on their agreement that this is the way that we should go forward. I am looking forward to this being resolved in the parliament and moving on from this issue.

Mr CLARKE: I think that the member for Mitchell has probably said most of what I wanted to say. I acknowledge that the government's amendment to the member for Lee's amendment does broaden the scope of the legislation and its coverage. The member for Lee, in particular, should be congratulated for bringing this to the attention of the House. I point out to the member for Gordon and to the minister that, in terms of national coverage—not only on this issue but on a whole range of issues with respect to workers' compensation as well as 24-hour coverage—the issues were covered by the Hancock committee of inquiry into a national compensation and rehabilitation scheme under the Whitlam government, which was scuttled, of course, as a result of the events of 11 November 1975.

This sought to ensure that Australians, no matter where they lived, would receive comparable conditions in terms of injury sustained not only at work but also in their leisure time, so that they would not be left without protection. Unfortunately, that was defeated. Although I must say that I have always had some concerns about a national system in terms of workers' compensation, because I was always worried about the fact that, whereas South Australia generally enjoyed, particularly under Labor governments, the best of workers compensation conditions, we would be reduced to the lowest common denominator amongst the states. That was always my concern in terms of the national workers compensation scheme—not the principle of it but rather the practical application.

I would also like to pay a tribute to the member for Gordon with respect to the role which he has played in this matter and which again highlights the important role that Independents have played in this parliament in ensuring that a just result prevails with respect to legislation. I have no doubt whatsoever—

Mr Williams interjecting:

Mr CLARKE: Well, Mitch, you cannot speak about Independents. You have been under more flags than there are on a battleship going full blast.

Mr Williams interjecting:

Mr CLARKE: I sometimes wonder, member for MacKillop. I point out that there is not a shadow of a doubt that, if this government had 24 votes on the floor in its own right, the member for Lee's very commendable amendment would not have been considered and would have been given short shrift and sent to the other place. So, this is another example of the role that Independents can play in a finely balanced parliament to ensure that justice prevails, and I commend the member for Lee's amendment and the member for Gordon's amendment to his amendment, which will see some additional justice with respect to, admittedly a comparatively small number of workers but which is, nonetheless, very important to those individuals who are affected by it.

Mr LEWIS: I guess what we all ought to do on occasions such as this, and they do arise more often than they appear to, is remember what we contemplate at the commencement of each day's proceedings when the Speaker reads prayers, that is, 'to advance the true welfare of the people of South Australia'. If we were to remember that and apply it to the processes we use in determining what the law should be, as opposed to what it has been, then spats that are based in personality of this kind would not arise.

What the member for Ross Smith has said about Independents is true. What I have nonetheless seen the member for Lee apply himself to was essential. What the minister did by enabling the House to report progress to consider the detail of what was necessary to deal with these cross-jurisdictional difficulties was more commendable. We would never have had this opportunity were it not for the minister's willingness to do that. He might have decided—Mr Acting Chairman, I am sure you will agree—to simply take his bat and ball, as I think the member for Lee was almost willing to do, and go home and let the bill fail. Then I would have been left in an awful dilemma because, at the time we were having this awful debate, there were a few other things occupying my attention and I did not get the opportunity to clarify my own situation. I will come to that in a minute.

I am saying to every member who has contributed: thank you—there should be more of it. Parties do not matter more than the people we represent. That is why parties, and those who say that all wisdom resides in one and none in any other, are seen as increasingly irrelevant by the wider community. The intention in the Westminster parliamentary system was always to enable parties to exist so that there could be Her Majesty's loyal government: a group of like minded members with the delegated authority from their respective electors to form the government, having a majority on the floor of the House. Equally importantly in the whole process of adversarial advocacy of which policy to pursue, is the ability we then have to determine who will be Her Majesty's loyal opposition, and, of what is left, those who will sit on the crossbenches, nonetheless still equal in our responsibility to contribute to the debate of legislation and, presumably, where we have some understanding, the desirable outcome that results for everyone.

I am saying thank you to everyone else and, coming to the point, I will be supporting what the member for Gordon has proposed as an amendment to the amendment which incorporates the best of the amendments moved by the Minister for Government Enterprises and the member for Lee into one single, simple statement. The commonsense that has come then from the member for Chaffey and the member for Ross Smith, who is the Clayton's Independent in this House at this point, is very helpful. If you want to have a drink when you are not having a drink, then Clayton's is very handy.

Mr Hanna: He is waiting for the Come Out festival.

Mr LEWIS: I do not know; it is probably Christmas—I didn't say which one. In any case, I have to declare an interest before I vote on this. Let us do this in the hypothetical manner. It is well known to members of this chamber, if they look at my pecuniary interests, that I have a small mining company that employs people in digging up ground and extracting from it parts which are sufficiently valuable to meet the costs of so doing, then leave some.

Mr Clarke interjecting:

Mr LEWIS: I am not sure how you spell that. Did you say 'hydrophonics'? That is whales wailing, is it not?

Mrs Maywald interjecting:

Mr LEWIS: Yes, noisy water, as the member for Chaffey says. In this case some people who work in my enterprise are resident in South Australia; others of them are resident in Queensland. Those who were resident in South Australia went to Queensland to work in the operation there. I was told—and I did quibble about it, but I did not have any option—to pay the premium in both South Australia and Queensland. Let us consider the hypothetical circumstance because I do not want to identify anyone, least of all anyone who worked for me, as a case in point.

I will say that on shifting equipment from South Australia through Broken Hill (which is in New South Wales) and Longreach (which is in Queensland), there was an accident or might have been or could have been an accident. The poor sod who worked for me then was not covered because he was not in South Australia and he was not in Queensland. Because I could have paid the premium in both places they each claimed the other was responsible and did nothing about it. It is not a funny situation at all where it then behoves me, or might behove me in this hypothetical circumstance to which I am referring, to have to meet the cost out of my own pocket.

The government claims it is compassionate yet the agency that demands the payment to extend that compassion in covering the risks involved, and make some on top of it, denies they are in any sense liable because the premium was paid in the other jurisdiction, which should accept responsibility for the injury that occurred in neither, or could have occurred in neither, but occurred somewhere else. It might not happen often, but I bet it has happened, especially in the transport industry. While it has not been drawn to my attention by anyone else, let me make it plain that it is not funny, and it is not funny either for the employer or for the worker to have such self-righteous, indignant, bureaucratic bullshit shovelled out after having met the law to comply and finding oneself still left in an extremely embarrassing situation.

To the member for Gordon I say thank you; to the member for Lee in getting attention to the problem in the first place when we last debated it, again I say thank you; to the minister for acknowledging that that is the way it will go—the member for Gordon's amendment to the amendment is what will pass—I say thank you. I wish it could have been achieved sooner.

The ACTING CHAIRMAN: I put the question: that new clause 2A proposed to be inserted by the member for Lee be amended by leaving out the words from and including paragraph (b) and inserting the words in paragraph (b) as proposed by the member for Gordon.

Mr McEwen's amendment to Mr Wright's amendment carried; new clause as amended inserted.

Clause 3.

Mr WRIGHT: This clause relates to section 43 of the act, which covers lump sum compensation for non-economic loss. This amendment has been brought forward by the government and it refers to compensation for claims arising out of court decisions. Not all provisions of the government's bill effect that: there are other elements of the bill. But this provision, along with other parts of the bill, brings forward amendments by the government in respect to compensation payments and they have been brought forward as a result of court decisions. This amendment to section 43 limits the entitlements for supplementary benefits where monetary compensation is greater than 55 per cent of the prescribed sum. Section 43(7a) provides that, if the amount of compensation to which a worker is entitled, under section 43(2), is greater than 55 per cent of the prescribed sum, the worker is entitled to a supplementary benefit equivalent to 1.5 times the amount by which that amount exceeds 55 per cent of the prescribed sum.

I understand that the amendment that is brought forward by the government arises from a court decision, Cedic v WorkCover Corporation, and the Workers' Compensation Tribunal interpreted section 43(7a) to mean that previous disabilities are considered in the determination of an entitlement to a supplementary benefit. The government's amendment, in essence, states that only disabilities arising from the same trauma event are considered in the calculation of lump sum compensation, that is, supplementary benefits. That is a disadvantage to claimants and a disadvantage to workers. In the second reading stage I expressed, on behalf of the opposition, concerns with regard to this. When we talk about this definition—and I hope the minister concurs with this—certainly members in this place who previously worked in the legal profession would not often have had people come before them who would fit within this definition of 55 per cent of the prescribed sum. Can the minister give practical examples of what injuries a person would have to have to qualify for these supplementary benefits? What combination of injuries might a person have to get them to the 55 per cent of the prescribed sum?

The Hon. M.H. ARMITAGE: The supplementary benefits were introduced with the repeal of access to common law for seriously injured workers in 1922—and I emphasise seriously injured workers. The benefits were introduced quite deliberately to adequately compensate severely incapacitated workers. It is the government's view that such benefits ought not to apply to workers with a number of separate but less minor injuries than those in the seriously injured worker category. They should apply to a worker who has a severe injury as a result of the same event specifically to provide more appropriate compensation for someone who was injured in that one event. This is, as the second reading explanation states, the result of a court decision. We do not believe it is what parliament intended.

Mr WRIGHT: That was not even half close to what I asked. Can you give us some examples of the kind of injuries or the combination of injuries a person who would get to this 55 per cent of prescribed sum might have sustained? Probably the minister did not answer the question because he did not know the answer or he realises, as we on this side realise, that we are talking about somebody who has to be pretty crook to get to that situation. We are talking about a significant range of injuries. So, the minister may well come back to the question that I asked in respect of giving some practical examples of a person who would be able to qualify for supplementary benefits.

My second question is: how many cases are we talking about in a financial year? If we allow the interpretation given in the Cedic v WorkCover case, how many examples are we talking about and, if the minister's amendment was successful, how many examples would we be talking about? It is a very specific question in regard to this decision of Cedic v WorkCover and also the government's amendment.

The Hon. M.H. ARMITAGE: The member for Lee might well know of the third schedule of the existing act, which sets out all the various percentages. I have gone through that and found that the loss of taste is 25 per cent, the loss of smell is 25 per cent, the loss of the phalanx of the great toe is 11 per cent, the loss of the distal phalanx of the great toe is 15 per cent: all those put together is more than 55

per cent. There are endless combinations. If the member for Lee wishes me to provide him with a breakdown of every single one of those combinations which is over 55 per cent, that would be fatuous, but they are all there. That is not the issue. The issue is that the supplementary benefits are to provide appropriate compensation for somebody who has a particularly devastating or major injury. In 1999-2000, I am informed, the number of workers with a previous section 3 lump sum of any type for a different claim was 13. In 2000-01, the number of workers with a previous section 3 lump sum of any type for a different claim was 25.

Mr Wright: Does that take into account pre and post—

The Hon. M.H. ARMITAGE: They are the total numbers. That involves workers with a previous section 3 lump sum for a different claim.

Mr WRIGHT: That highlights that we are talking about a very small number of individuals—a very small number of cases. The minister might have already done so, to give him the element of any doubt, but will he clarify whether those figures, 13 and 25, relate to the number of cases we would be experiencing under the interpretation of Cedic v. WorkCover, and how many cases we would have had if the government's amendment had been in place? In fairness to the minister, he might have given me the answer—that is, 13 and 25—but I would like that confirmed. My third question is: what are the estimated savings to WorkCover over a financial year if the government's amendment is successful?

The Hon. M.H. ARMITAGE: I am informed that in 1999-2000 the total number of supplementary benefit lump sums paid was 66, and 13 is the number of workers with a previous section 3 lump sum who would have fallen into this category under our amended legislation. The total number of lump sums paid, if this were to be passed, would be 66 minus 13, for 1999-2000, and 98 minus 25, for 2000-01.

Mr Wright: And the cost?

The Hon. M.H. ARMITAGE: I have no idea. I can get it for you. I have not worked that out.

Mr HANNA: This is arbitrary cost cutting. It is mean. The minister's own statement as to what section 43 is about sets the groundwork for the defeat of this amending clause. He points out, quite rightly, that when common law was taken away the intention of the parliament was that there should be something extra given for the more seriously injured workers—those left with particularly serious disabilities as a result of work accidents. What the minister says now is that the seriousness of injury must result from the one trauma, the one event. What the hell difference should it make if you are a worker who has been seriously injured in two different incidents or in one incident? Why should that make any difference? The fact is that, at the end of the day, if you are getting to 55 per cent of total disability, you are a very crook, injured worker. You are a seriously disabled person. Many of these people will never be working again because they are really pretty badly off. If you want an example, we are talking about somebody who has lost 50 per cent of their ability to hear, so they are reasonably deaf.

Mr Lewis interjecting:

Mr HANNA: Maybe like the member for Hammond but, in all seriousness, much worse. They would not even get to the 55 per cent. If you lose 50 per cent of the use of one of your knees, you are not moving around quickly. You are probably not going to be able to run: perhaps you will only be able to shuffle. But you would not get to the 55 per cent. You would have to lose the total use of one of your knees or, for example, you would have to totally lose your sense of hearing to get over that 55 per cent.

The very purpose of the legislation as it stands today is to give something extra to those workers who are very seriously injured. It is arbitrary cost cutting and, what is more, it will apply to only a handful of workers, as the minister has said. You have to get all the seriousness of the injury from one trauma. What does it matter to any of us if our intention, as expressed in this legislation, is to give something a bit extra to those people who may never work again because they have been very seriously injured? Why should it matter that it has happened through two successive work injuries instead of one? Why should it matter if it is two or three instead of one?

I will paint the picture a bit more clearly. Let us say a worker injures his back (it is a man) at work and he has, in total disability terms, 25 per cent total disability of his entire physical capacity. He will be pretty crook. That will rule him out of almost any physical job, unless he can take a great deal of care in sitting or standing as the pain dictates—unless he can pretty well choose his own freedom of movement through the entire workday—and there are not many jobs where relatively unskilled workers have that luxury and that freedom. That injured worker does not get to the 55 per cent level that we are talking about. So, we are talking about someone with a substantial disability who will be greatly restricted in ever obtaining work again but who is not receiving the supplementary benefit that is in section 43 because they are not very seriously injured.

However, let us say that that worker gets another job as a car park attendant or a ticket collector—one of those jobs that WorkCover and the insurers come up with after the two year review of the worker. Let us say that the worker is employed again, and they sustain another injury that could be totally unrelated to the back: a sharp implement might have fallen from the ceiling and severed several of the worker's toes, so that, apart from the bad back, the worker sustained another serious injury which was not in itself serious enough to qualify the worker for the 55 per cent level of disability, which triggers a supplementary benefit. But, if you take the two separate injuries, you end up with a very seriously injured worker—someone who is far more incapacitated than if they had either of those two injuries.

What we have at the moment by way of legislation (which, of course, I think is reasonable and fair, relatively speaking) is an intention to say that a very seriously injured worker receives a supplementary benefit. In the scheme of things, that is because we took away common law rights which could have given benefits far more than section 43 ever provided in terms of pain and suffering. So, there was a trade-off in the workers' compensation system, and what the workers received for losing the common law entitlements was a proposition enshrined in section 43 that said, 'If you are very seriously injured, we will give you a little bit of a top up. It is not much, but it is a bit of a supplementary payment. It is a few per cent extra; a few thousand dollars extra.' That is what we will rip away from people because they had the misfortune to have two separate work injury incidents instead of one. How unjust is that? We are taking away those few thousand dollars from a handful of workers each year.

Why are we doing it? Why would we think of doing it? What kind of actuary, accountant, bean counter or Liberal government politician would say that these workers are somehow double dipping and that they are undeserving of these few thousand dollars extra because they have been crippled or mangled in more than one injury incident? It is

arbitrary cost cutting—and it is not even cost cutting very much. That is why the minister gets called mean sometimes by people on our side or by the unionists or injured workers, because we are going to have someone injured tomorrow who has already been injured in a work incident last year, and they would have had about 25 per cent of their total physical capacity taken away from them by that work injury. If the worker's total capacity had been impaired to the extent of 60 per cent, they would be receiving that supplementary benefit.

However, let us take the worker who was injured to the extent of 25 per cent of his or her physical capacity last year. What happens is that such a person has struggled to get back to work, even with a 25 per cent physical capacity impairment, but tomorrow he or she is injured to the extent of about 40 per cent of their physical capacity. In itself, it would not be enough to trigger the fairly measly supplementary benefit that they can receive under section 43. As a result of this amending clause, they will be told that they will not receive any supplementary benefit, even though their end result is that they are 60 or 70 per cent impaired. They will be told, 'No, that provision is not for you. That is only for people who have exactly the same level of physical incapacity arising out of one incident. Your misfortune was that you were injured in two separate incidents, so you do not get the extra few thousand dollars. Bad luck.'

That is the intention of the parliament and the government, and it is wrong and unjust. I cannot imagine any argument that could sustain that sort of injustice. If you stand the two workers side by side—one worker who has been injured in one incident, to a certain extent that gives them a supplementary benefit under the act, and the other worker who has been injured in two separate incidents, who has been impaired to exactly the same level of incapacity—under this law, they will not receive the few thousand dollars extra. Where is the justice in that? They are both injured to exactly the same extent as a result of work injury. It is totally unjust. It is arbitrary cost cutting, and it has a very mean effect on a few workers each year.

Mr CLARKE: The member for Lee and the member for Mitchell have covered all the points that I would have made in terms of the 55 per cent threshold. I know that the member for Gordon, in particular, and the member for Hammond would have listened to their arguments, which are unassailable in terms of a just result. If the minister, in his answer to the member for Lee, cannot tell this committee what are the savings to the corporation, why are we debating it? Why is it a problem? The minister said that he would not have a clue about the savings, although he knew about the number of individuals who would lose out under the government's amendment.

I think that members of this parliament, before we take away workers' rights, have a right to expect the minister to tell us what it saves the corporation. I put it to the Independents, in particular, that, in 1986, when the Workers Rehabilitation and Compensation Act was passed, to come into force in 1987, there was a trade-off. Workers sacrificed their ancient common law rights to sue their employer for negligence for injury caused at work. That same worker who walked into David Jones and was injured as a result of being on that company's premises (I use that by way of example) would have had then, and would have today, the right to sue at common law, if they could show that that department store was negligent in relation to the safety of its customers or people who traversed through its premises.

Workers in this state are, essentially, the only group of people who have no common law rights with respect to negligence. The trade-off was income maintenance, rehabilitation at work and the section 43 table. Ever since 1987, the workers have had those benefits eroded over time by successive governments—in particular, by this government in its workers' compensation amendments in the last parliament and what we have here before us.

The argument used every time by the Liberal government, and by other governments (I concede the amendments of 1992, put through when Norm Peterson was in the chair), was that we had to do it because the corporation was bleeding and, if we were to restore the level of funding to WorkCover, the employers would have to pay more by way of premium, which would make us uncompetitive with the other states, particularly Victoria and New South Wales.

New South Wales has always maintained the common law system. Victoria did for many years. However, it was abolished under Kennett, and it is now back—although I am not sure to what extent. The employers of this state and the government have to recognise this: costs in workers' compensation for employers have been reduced dramatically since 1986, particularly in industries such as manufacturing. There was a trade-off. There became a cross-subsidisation such that the employers of workers in industries that had a lower incidence of injuries—for example, service industries—paid more by way of premium to subsidise those workers who were injured in the more dangerous industries. This was the case with the manufacturing industries and it allowed those industries to be competitive with their interstate counterparts. That has been successful in terms of reducing overall costs to employers in this state and there has been a steady reduction in the level of benefits payable to workers under this act, and this is but another part of that overall scheme.

I warn the employers and this government that we just cannot keep shaving away at the Workers Compensation Act. When the workers—and let me put this absolutely clearly—gave up their ancient rights to common law in 1986, it was in return for a compact. If we constantly erode one side of the equation, the workers will say that that compact has been broken and that the benefits they saw come out of it in 1986 have been so seriously eroded that they want to go back to full common law. Their attitude will be, 'We'll take our chances in the lottery as to how much we can settle our claims for. We'll go back to full common law, because if you keep eroding our benefits under the present act we'll be better off taking our chances in the lottery.' That would send workers' compensation premiums spiralling.

So, I say to the minister—and the Chairman might see the sense of this analogy: by all means shear the sheep, but if you get too close to the skin and draw blood they react savagely. When the workers' compensation scheme was introduced South Australia led, and it managed to save our manufacturing base by making their rates competitive through cross-subsidisation. It removed the lottery system in terms of common law benefits payable to injured workers. However, once those scales of justice tip, heaven help us. I repeat: we have had ministers in the past say, 'We must save a certain amount of money. There have been cost blow-outs on this, that and the other; that's why we brought in this measure.' If the minister in charge of WorkCover cannot tell us what the savings are and what it means in real terms in savings to employers, why are we debating this measure? It is simply an unjust exercise.

Progress reported.

The Hon. M.H. ARMITAGE: I move:

That the debate be resumed on motion.

The committee divided on the motion:

While the division was being held:

Mr WRIGHT: Mr Speaker, I seek leave to withdraw my call for a division.

The SPEAKER: Leave is granted.

Motion carried.

AGRICULTURAL AND VETERINARY PRODUCTS (CONTROL OF USE) BILL

Adjourned debate on second reading.

(Continued from 1 November. Page 2658.)

Ms HURLEY (Deputy Leader of the Opposition): This bill is intended to cover not only the agricultural and veterinary products mentioned in its title but also fertilisers. The bill conforms to a national agreement whereby—

The SPEAKER: Order! There is too much audible conversation in the chamber.

Ms HURLEY: —such chemicals are registered by the National Registration Authority for Agricultural and Veterinary Chemicals (NRA). This legislation before us allows the states—

The SPEAKER: Will members take notice of the chair? There are too many audible conversations going on while the deputy leader is speaking. Either take your conversations outside or keep them to yourselves.

Ms HURLEY: The bill allows the states to implement monitoring and control and ensure that the outcomes required under the national agreement are able to be enforced. I am told that there has been extensive consultation with farmers and veterinary surgeons and that there is general agreement with this bill.

There are a couple of major aspects to the bill. There are the general duty provisions whereby the holding of such chemicals, the containers in which they are held and their use can be controlled by the state government. For example, the state government can ban unregistered chemicals from use and determine that they be kept in appropriate containers and used according to proper directions and also, quite importantly, because this is beginning to be an issue of concern for residents in particular areas, that designated chemicals or fertilisers should only be used within specified target areas.

The SPEAKER: Order! It is just not fair on the Deputy Leader of the Opposition to have to continue the debate with seven conversations going on. I ask members to continue their discussions in the lobby or talk quietly amongst themselves, but please let the member have a fair go. The deputy leader.

Ms HURLEY: Thank you, sir. The bill also allows for withholding periods. This ties in with another aspect of the bill which deals with trade protection orders and which includes provisions to allow, for example, the recall of products. The bill enables the government to regulate stockfeed and other means of protecting trade, because we all know that in a number of markets (both domestic and international) there is great concern about the use of chemicals and additives such as hormones in stockfeed. In order to pursue those markets, it may be necessary at least to record and monitor the use of those chemicals, if not cease their use altogether, if the product is to get a premium price.

The opposition supports this bill, because it seems to be quite a step forward. I am sure that in many respects the bill could go further in controlling the use of fertilisers and other chemicals. This is quite an issue in some peri-urban areas where housing is close to agricultural areas. I, like I am sure many government members, have received a lot of representation about problems arising from this issue, and I am sure that we will have to deal with it quite soon, particularly, for example, where vineyards have been set up close to housing, such as in my electorate and the electorate of Light for which I am a candidate, where householders are very concerned about spraying with chemicals.

This bill contains some provisions to deal with this issue such as 'use within prescribed target areas'. It is useful to see that the bill provides strict rules for compliance. In fact, in terms of compliance measures, the bill is perhaps a little too strict, but we will deal with this matter when we discuss the individual clauses in committee.

I indicate that the opposition is pleased with the national push for agreement on compliance. It completely agrees that these three classes of chemicals (agricultural, veterinary and fertilisers) should be assessed and regulated on a national basis. That is the only way to proceed in our country. It makes sense that the states which are closest to the use of these chemicals should be the ones to monitor and ensure compliance with the general principles.

Mr CLARKE (Ross Smith): This is an important piece of legislation, which I did not think I would know a great deal about.

The Hon. R.G. Kerin: We all agree with you.

Mr CLARKE: Don't tempt me, Mr Premier, because I recall that the Premier, when he was a humble minister of the Crown, put out a green paper on this issue—I think more than two years ago. This legislation has had a gestation period longer than that of an elephant. The Premier will say that that is due to extensive consultation. I suggest that it was a pretty closed circle, because there are many community interest groups who were interested in this green paper and what would happen as a result of it and, as far as I can understand, they were not brought into the loop. I admit that they do not necessarily represent big and powerful lobby groups, but they had particular interests in this area and they reside, for example, in the Adelaide Hills.

When the Premier was solely the Minister for Primary Industries, he was contacted on this issue by people such as Mr David Mallan, who resides in the Adelaide Hills. The Premier clasps his head in his hands. I admire Mr Mallan and people such as he because they alert people such as I. I readily acknowledge that I do not come from an agricultural background and do not have the same sorts of expertise that he has developed over time in this area. The Premier comes from an agricultural chemical background in his former life prior to entering parliament, and he may well be one of those people who believes that you can eat pesticides and not be harmed by them. Well, that is not the case.

In fact, I was indebted to Mr Mallan for taking me through the Adelaide Hills some months ago where he showed me his concerns about crop spraying, the use of pesticides by council contractors in killing different weeds, and the like, which would seem to have been done recklessly and without care and which pose risks not only to humans but also to plants and the like within the area. There is the heavy use of pesticides in our water catchment areas, for example with the growth of the new vineyards throughout the Adelaide Hills

and elsewhere. There is a very heavy use of pesticides in those areas, and that all washes down into our reservoirs.

Likewise, we only have to look at the ham-fisted way the Department of Primary Industries handled the fruitfly eradication program earlier this year, and the rather haphazard way workers in that area were controlled and supervised and given training with respect to the spraying of future trees in metropolitan areas of Adelaide, to see that there is an urgent need to upgrade the safety and enforcement mechanisms, which I believe this bill goes towards.

So in broad terms the bill appears to make provision for a number of important positive developments in the control and use of agricultural and veterinary products and the disposal of containers, but its effectiveness will rely on the quality of the supporting regulations and that, effectively, is where the guts of this legislation will be, in its regulations, and the commitment of the government in particular to Primary Industries, which a number of people in the community believe has an appalling record in this regard in terms of resources implementation, monitoring compliance and taking appropriate administrative actions as required in the public interest. Thus there is no guarantee that the legislation before us will effect any improvement on the current situation.

Mr Venning: Ben Brown does not agree with that.

Mr CLARKE: Well, Ben Brown, of course, is a primary producer and I am sure he is very careful with the use of agricultural chemicals on property, but I think he also follows a view within some elements of primary industry that if you can get a few extra bushels by using so many extra chemicals on a particular piece of land, well so be it.

The misuse of agricultural and veterinary chemicals is a major cause of harm to the environment and human health. This is true internationally, nationally and in South Australia, and I will provide a few examples. That is not to say, obviously, that you do not use pesticides, you do not use chemicals, because clearly we do need to use them in terms of our crop production, but it is the handling and use of them which is very important.

For example, there has been large-scale environmental damage to mangrove swamps in Queensland caused by diuron run-off from sugar cane farming; damage to the Great Barrier Reef associated with pesticides; pesticide residues found by SA Water and the Department of Agriculture study of sediments in Cox's Creek in the Piccadilly Valley in the mid 1980s; the recent serious problems arising from Primary Industries' poor application techniques of potentially dangerous pesticides in Adelaide suburbs during that agency's mismanagement of the fruitfly outbreak; and the internationally documented association of pesticides and damage to human health and to animals in field research and in controlled laboratory tests, including links with cancer, endocrine damage, hormone disruption, reproduction hazards, chromosome and genetic interference and neuro-toxic damage, with studies showing that children are at particular risk.

There are the United States geological survey statistics showing that, and I quote, 'more than 95 per cent of surface water samples collected from streams and rivers contain detectable levels of pesticide contamination', and that 'over 50 per cent of underground water was contaminated by at least one pesticide'. Further, a report on pesticide use in California indicates a 31 per cent increase during the period 1991 to 1995, almost entirely by the primary production sector.

There has also been the substantial and progressive increase over the past 50 years in the volume of imported herbicides, anti-sprouting products and plant growth regulators used in Australia. This is as revealed in an interrogation of the Australian Bureau of Statistics International Trade Database. It shows an increase from 1.46 million kilograms in 1989-90 to 8.44 million kilograms in 1990-2000, and, importantly, these statistics do not include domestically manufactured products.

I also refer the Premier to the findings of the study undertaken in south-eastern South Australia by the Department of Environment and Natural Resources in 1996 entitled 'Pesticides and nitrate groundwater in relation to land use in South Australia'. No doubt the Premier has that at his fingertips. The results of the Adelaide Hills chemical drum project indicate that, to date, tens of thousands of drums have been handed in by primary producers. For example, in the *Mount Barker Courier* of 9 June 2000 it was reported that something like 20 000 containers had been handed in.

I also refer to the recent review of water quality in the Mount Lofty catchment area revealing that pesticide has been detected in five major Adelaide metropolitan reservoirs in the last 12 months, namely, Happy Valley, Millbrook, Warren, South Para and Barossa. I indicate to the Premier that the background information document was issued by the EPA Mount Lofty Ranges Watershed Protection Office in October 2000.

This bill deals with only one aspect of the problem, the control of agricultural and veterinary products, but needs to be considered in the context of other relevant legislation such as that relating to the EPA, occupational health and safety and the Health Act licensing and regulation of pesticide contractors. One of the major obstacles in protecting the environment and human health in South Australia—

Mr Venning: Who wrote this speech?

Mr CLARKE: I know this is far too complex for the member for Schubert. He would not only eat pesticides, he would drink them, in large quantities. In fact, he may be a product of someone who did. One of the major obstacles in protecting the environment and human health in South Australia is that responsibilities in this area are spread across a significant number of government agencies, including Primary Industries, the EPA, Department of Human Services, Local Government, Transport SA, SA Water, and others, and, frankly, Premier, there is a serious problem which results from the lack of coordination of planning and administration and from buck-passing when issues arise.

I also say that this bill relies very heavily on monitoring compliance with the instructions on pesticides, etc. on labels as prescribed by the National Registration Authority. This is an area of concern as the NRA is slow, cumbersome and conservative and bases its decisions on research and recommendations made by the chemical industry and those seeking registration of chemicals. It is also well known to be slow in reviewing registration of pesticides, and pesticides are often available in Australia long enough after they have been deregistered in other countries because of proven harmful effects. Primary Industries, the state government agency which is responsible for notifying the NRA of problems with chemicals in the field, has been accused by some at being, at best, selective in what it relays regarding failure to met registration requirements.

So, whilst I support the bill and its general thrust as indicated, I will have a number of questions to put to the Premier during the committee stage. We want to see not only

that this legislation is carried in terms of its nice sounding words, as outlined in the Premier's second reading speech, but that the regulations are brought into effect as swiftly as possible. We do not want them to have the same gestation period as this bill has had. The world was created, I understand, in six days and the Lord rested on the seventh; the United Nations did not take as long to be established as it has taken for the Premier to have this piece of legislation come from the green paper that was issued more than two years ago. We would hope that the regulations would be in place. It may be that the Premier will not be occupying the treasury benches by the time this is finally implemented but, if he happens to be, I would hope that the regulations, which are the guts of this legislation, are brought into play far sooner than it has taken to get this bill before the House, and that the resources necessary to make the nice, fine sounding words in this bill effective are provided by Primary Industries and other government agencies that will be responsible in this area.

I was one who was guilty of being somewhat ignorant about the dangers of the use of pesticides and herbicides and the like, thinking that this was just a farmer's-type piece of legislation and that it was all a bit too complex for me. When I had the opportunity to discuss this matter with a number of concerned individuals and looked at the material they put forward, including what they have given to me, in terms of reputable information from the United States and elsewhere, regarding the dangers and growth in the levels of pesticides found in water used for human consumption, in farming areas, and underground contamination of our water, I saw that these were very serious issues and should be treated as such, and that the government of the day should also treat them seriously and ensure that the act is complied with, and that the government agencies responsible for enforcement should have the resources to do their job properly.

Mr VENNING (Schubert): Before I came into this place, I was a farmer, as people know, and I still own property. When I heard the comments of the member for Ross Smith, who I know has a very good friend in Ben Brown (whom I know very well), I just wondered who wrote them because they seemed to come from the Conservation Council or someone like that. His comments were certainly overcautious and tended to sound like those of a scaremonger, which is unusual for the member for Ross Smith.

Many of the problems that he highlighted were interstate problems, such as those in Queensland and in the cotton fields of New South Wales, where they had to use very heavy doses of insecticide. We are now seeing less of a problem because genetically modified cotton has had insect resistance bred into it and there is much less chemical use, and that means that it is not coming down the watercourses into South Australia.

The member for Ross Smith mentioned the fruit fly program; there was certainly a problem with that, and to the minister's credit that has been addressed. The ERD Committee heard evidence from several witnesses on that matter. We had an unfortunate situation where we had to put many people in and a few of these operators could be classed as cowboys, particularly in front of a TV camera, waving the spray in the air. That was very unfortunate and gave the industry a bad name.

But GM crops can and will continue to solve many of the problems that we have with chemicals, particularly pesticides. We in South Australia have a very good record and it is improving quickly because our farmers are responsible and most of them are accredited and know the dangers of chemicals. The member for Ross Smith made a good speech, incidentally; I will not criticise him for it, as he did his research well. He took a strong, green line—

An honourable member interjecting:

Mr VENNING: There are votes in it! Pesticides are the worst type of chemical and we should do all we can to avoid using them because, as most farmers know, if you use pesticides ad nauseam, they will often remove the natural predators of the insect that you are trying to get rid of—

Mr Lewis: Not necessarily.

Mr VENNING: They can. Being a farmer before entering parliament (and I still have an interest in the family farm), I know a great deal about farm chemicals, both for agriculture and those used for the treatment and care of sheep, cattle and pigs. When I was still actively managing the farm, I received wise counsel on my chemical and weed control measures from none other than the Premier of South Australia. He was very good at his job back then and the farm flourished. Mr Kerin gave very good advice. He took over from his father when he operated from a one-room office in the main street, and it rapidly increased in size to premises around the corner from the main street which had two offices and a large storeroom. They were not long there, only a matter of three or four years, and then they had to move out onto our farm and buy a piece of our farm to expand. Now they have three huge warehouses and the company has flourished. The chemicals were well priced, but most important of all, the advice that went with the chemicals was good.

Premier Kerin was very well respected then, as he is now, for the advice that he gave in relation to the safe use of chemicals. He is one of the few chemical salesmen who would tell you that you do not need to use that amount of chemical, and he would suggest that you use a particular chemical because you will use less, it is less expensive and it will be better for the environment. So Rob Kerin's business flourished and so did the farm. It is sad in a way that the Premier is no longer giving that advice, and it is also sad that I am no longer farming, but we are both here in this place. I have to say that the farm is still flourishing because the Premier's brother, Peter, has taken over the Premier's job and is doing it equally, or nearly, as well as the Hon. Rob Kerin did. Leadership showed out in this gentleman then and the respect that he had extended right over the whole of the Mid North.

People came from far and wide to visit Kerin Agencies, and if you go to Crystal brook today you cannot miss the large establishment as you drive into town, with three large warehouses and, of course, the Kerin flag flying very proudly outside, along with the South Australian flag. Rob is very humble about it but he cannot deny it; it is all there. Kerin Agencies always was and still is a family company, and it is great to see Rob's father still involved with it.

I am saying that this is all about responsible use of farm chemicals, and it is an essential part of modern farming practice these days. We are told to look after our soil, even by the conservationists—and the member for Ross Smith is one—but, on the other hand, we are also told not to use chemicals and that we should go organic. That is well and good, but we cannot have it both ways. We, like the vast majority of farmers, practise minimum tillage where we work the ground only once when we sow the crop. The essential and integral part of minimum tillage is the use of selective herbicides. Before you plant a crop, you encourage the weeds

to grow by taking off the stock. You then spray the weeds with Roundup, which is a well-known chemical to most people—even people living in the city know it as Zero, but it is the same chemical. The next day the farmer sows the crop—with no great wide shears, just minimal till—and controls the weeds when they come up. That is the way in which one saves the soil, but to do that we are using chemicals. The use of herbicides today is so widespread that I hardly know any farmer who does not use some spray.

If we were to go organic—and that is a strong push—we would not have the production we have today. Every member here would admit that: our production would be down to 60 per cent on what it currently is. This year is a massive year, as good a year as I can remember. The use of chemicals has been prominent. In a year such as this, there is a lot of fungi and disease, particularly on legumes. A lot of chemicals are used on peas and beans. It is not economically viable to practise minimal tillage and not to use herbicides: the weeds would take over the paddocks and you would be lucky to reap any crop at harvest time. After two or three seasons like that, the weeds would be self-seeding and out of control.

The use of agricultural chemicals for economic viability in farming is essential. Farmers who run stock use chemicals to treat and care for animals in drenching, vaccinating and dipping. You would not want to get too much dipping fluid on yourself because it is dangerous. Years ago we used arsenic dips, which worked extremely well. Similarly, white ant sprayers used DDT which worked brilliantly. But today we use chemicals that are nowhere near as effective. The arsenic dips are gone. We now use ordinary based dips which are not as effective but are not as dangerous.

The most important thing about this, as the member for Ross Smith highlighted, is the education program that goes with the safe use of chemicals and accrediting the users of such chemicals. We have had cowboys handling dangerous chemicals and we have seen silly people dropping drums from the back of farm utes, causing them to break on the ground with the leaked chemical going into the gutter. We have seen all these silly things over the years.

Mr Lewis interjecting:

Mr VENNING: No, it has never happened at Crystal Brook to my knowledge. Today the scene is very different. Today, almost all farmers are accredited because they cannot buy the chemical unless they are accredited. If a person went into Kerin Agencies and asked for a certain chemical, they would have to prove their accreditation; otherwise, the staff would not let them have it. Apart from accreditation, we are seeing the use of recyclable containers. When we purchase Roundup, it comes in a plastic container. The chemical is sucked out by a pump; you do not see or smell the chemical as it is put into the spray unit. When the container is empty, you take it back to the agency and you get your deposit back on the container, which is reused.

We have come a long way in the safe use of chemicals. As the member for Ross Smith and others said, the registration of chemicals today has brought about all this. To say it is a slack and dangerous industry is not quite fair. I give farmers the highest credit for having seen the folly of their ways in the past. They have seen how dangerous it is; they have seen how much of a threat it is to the health of not only themselves but also their families, particularly with chemicals that are poured onto the sheep's back for lice. It is called a pour-on applicator. You pour the stuff down the back of the sheep, and that takes all the lice off the back of the sheep. Members can imagine what would happen if you got it on your hands and then went to do a natural regular private act. It could cause no end of pain. One of my neighbours did just that—and the Premier would know that neighbour—and he put himself into a lot of agony.

People need to realise that careless things such as that happen, particularly with the use of very concentrated, powerful, specialist-use chemicals. A few members are smiling: I did not say it but I think they have got the picture. It is all about education and training that has seen our farming community take on board these safe practices and, if a bureaucrat came to a farm and tried to lay down the law and tell someone what they should be doing, they would not have a hope of convincing them. It has been done very well over the years and I think we have made tremendous progress.

I hope that the Premier will tell the House of his vast experience in this field. He was not only giving advice on the use of chemicals and promoting accreditation of farmers but also arranging schools for farmers to be accredited. He was also a member of the agricultural chemicals council, so the Premier has a lot of expertise in this area. I could go on, but I will not do so because I am looking forward to hearing what the Premier has to say. I support the bill.

Mr LEWIS (Hammond): If that was not an effort of brownnosing, I do not know what is.

Mr Venning: It's true.

Mr LEWIS: I know; I just said that. You do not have to tell me it is true. I ought to ask the Premier which pocket has the most in it and how wet it feels. Of course, the general principle of the legislation is something I am happy to support. There are elements within the bill that are disturbing. This is a huge bill and, when I look at the second reading explanation, which was incorporated by leave and not read, I see that it makes interesting reading to discover that in Division 1 there are offences for agricultural chemical products. I am not going into all the good reasons why we want this legislation; I will try to save time, given that it is 11.43 p.m., and focus my attention on those aspects of the legislation which cause me anxiety. Part 3 Division 1 deals with unregistered agricultural chemicals.

The minister (who is the Premier) in the second reading explanation, where his remarks without their being read were incorporated into the record, points out that this clause prohibits the possession of an unregistered agricultural chemical. First, what is a chemical? Presumably, that is a homogeneous substance or a combination of homogeneous substances in some sort of container. Who decides then when it is an agricultural chemical? If members look at the definition in the legislation, they will see there is not any such definition of an 'agriculture chemical'. There is a thing called an 'agricultural chemical product' which has the meaning given by the Agvet Code of South Australia. This is another cause of anxiety for me. I will tell members why in a minute.

Here we have a vague description or definition of a very important term in law which could cost someone their farm and their livelihood if they were prosecuted under these provisions. It is not properly defined. An agriculture chemical product, as I just said, has the meaning given by the Agvet Code of South Australia. That is not in the statute. How does a citizen find out to what law they will be subject when it is not a provision in law and not a requirement in law that it appear in the law? It appears in some other written document that can be changed at whim. It is not necessary for the Agvet Code of South Australia to be formalised in the sense that

parliament cannot debate it; parliament cannot disallow it; parliament has no control over it.

If we pass this legislation, we delegate our authority to somebody who is totally unaccountable. The Agvet code of conduct is determined by people who are not elected by the citizens of South Australia. They are not necessarily people who will objectively consider the best interests of the public. They could be people who will pursue definitions that suit their commercial interests and that is often nothing to with the public interest—quite often the opposite of the real public interest. It is our responsibility to ensure that we enhance and prosper the true welfare of the people of South Australia in our daily deliberations. The member for Schubert and the member for Stuart would have picked up this point in any second reading contribution they would have made. If they had been sitting on the other side of the House, they would have screamed at the Minister for Primary Industries for delegating the definition of a law, under which people can be imprisoned for up to two years, completely out of the parliament's control. It is not in statute. That is a very serious in principle flaw in the way in which government should operate, and a very serious flaw of the parliament if it delegates authority to a group of people over whom it has no control, a group whom the parliament does not determine and cannot call to account.

I can hear it happening now that a member in this House will rise to inquire about one of their constituents where the law has been brought to bear for a misdemeanour that the constituent has allegedly committed, where a breach of a code of conduct has occurred about which the citizen had no knowledge and could not reasonably be expected to have knowledge. Even if they look it up on the internet, they will not find what the law is: they will find what the current Agvet code of conduct is.

It sounds good and I am sure the minister can explain it reasonably, but to use subjectively determined, unaccountable statements of what should prevail, what should determine who can do what, is a bad principle. If we allow it in this legislation, why would we not allow it in any other? If it is good enough in principle for this piece of legislation, we could have a similar Agvet code of conduct as it relates to the road traffic law or anything else. Parliament could simply delegate away the accountability that is presently there to some external body of people, of so-called experts, who are supposed to be capable of determining what ought to be done in law by the inspectors who are put there to enforce it. Yet the law will not be written in the statute book or found in the *Government Gazette*. The people who make the law will not be accountable other than through the obscure mechanism of embarrassment to the minister. I do not know how the Agvet code of conduct is determined. It is not spelled out here so why should I trust it? I know very well that, if I do not raise my voice about this on this occasion, another minister will bring in a code of conduct whereby the statute delegates the authority to prosecute for breaches of the code, over which parliament has no influence and which can change without members of parliament being able to scrutinise or alter it.

I will leave that point and move on to the next item of concern that I have which in some part arises from it. Compliance with the duty is instead enforced by the issuing of a compliance order under part 5, division 3 of the bill. It is extremely difficult for anyone—you have to be a bloody Philadelphia lawyer not a bush lawyer—to understand how you get to be acting lawfully. It means, of course, that farmers will of necessity have to employ a lawyer or join the South Australian Farmers Federation—the cheaper of the two options will still cost something in the order of several hundred dollars a year—just to keep themselves abreast of what is occurring, not in the change of practice but in the change to the law, because the law will not be written in the statute book: it will be determined in committees behind locked doors. There will be no report of who said what when those matters are debated in the forums in which these determinations are made. So the citizen will not be able to engage in dialogue with the advocates, for or against a particular point: they will not know when the meetings are being held.

At least at present, under the system where we have statute law that authorises regulations that are made by the Governor in Executive Council on the recommendation of ministers, they own the gazette, and the citizens know that they can engage in a dialogue with the minister, and/or anyone to whom the minister wishes to personally delegate the responsibility on his or her behalf to respond, because the minister knows that they are personally held accountable for the views contained in the correspondence sent out above their hand.

But this is not like that. This goes a stage further. I am disappointed that the Premier should try it on—probably unwittingly but, then again, that is in the nature of the man. It does not assist people's respect for the law or for parliament when parliament makes such law as to give away its responsibilities for the determination of what is acceptable behaviour and what is not—what is approved by the law and what is not. Very soon we will have a situation where parliament does not have to meet. We will have delegated all the authority to make law to other bodies outside the parliament that are not accountable to a minister or the parliament. So what does it matter? You will not even be able to ask questions about it. Vested interests will capture these quangos that set up the Agvet-type determinations of what is acceptable or not.

I go on to talk about how one becomes an offender under these so-called provisions. If, as a user, you are using an unregistered agricultural chemical product, how do you know that it is regarded in law as being unregistered? If it is a chemical such as sodium chloride but is not registered to kill soursob, and if you use it for that purpose, let me tell you, under this legislation that will be an offence. An authorised officer, such as an inspector, will be able to prosecute you for that offence. You may ask, 'Why is that so?' and 'What is sodium chloride?' It is common salt and it does kill a lot of things. That is why we are trying to keep it out of the Murray.

It can be used in specific locations to get rid of a particular weed but, if it is not registered for that purpose and you use it, you will be committing an offence, and you could be prosecuted for it. The same applies to common salt. Most of us at some point in our lives have bathed our wounds, whether external or internal (in our throat, for instance, by gargling), with common salt, yet if we treat the open wound of an animal with common salt, with a view to either preventing or ameliorating the effects of an infection in that wound, we could be prosecuted for an offence for using an unregistered agricultural product for the treatment of that wound on that species of animal. That is wrong.

The law, as the minister has had it drafted, is therefore a botch, since it gives power to prosecute for offences which are not explicitly sufficiently defined. We will make fools of ourselves if we support such sloppy definition, which ultimately might be used against a citizen by an authorised officer in a spiteful manner. I know that honourable members

would be likely to ridicule me for drawing attention to that, saying: 'That is not what is intended', but I have been here for 22 years and I know what the spirit of the debate was at the time some legislation was passed by this place. Yet when it was enforced by the officer interpreting it, the meaning given to it was entirely different.

The way in which the courts chose to interpret it, when a prosecution was brought against the officer, was entirely different. I say to you all, it is therefore inappropriate for us to say that we know what we mean. I will give a classic illustration of that. Section 16A of the Parliamentary Committees Act defines 'public work'. I refer to the second reading explanation and the amendment to that provision, which the Attorney-General moved in the other place when he introduced the measure to establish the Parliamentary Public Works Committee. If you read exactly what the Attorney-General said, and if you look at what was incorporated into *Hansard* by Stephen Baker, the then Deputy Premier, when he introduced that legislation in this place, you see that it is a public work if the work is worth more than $4 million and is on land of the crown, that is, land that is called crown land or land that belongs to any minister or agency that the minister has control over.

It also states that, if the work is not on crown land but more than $4 million of taxpayers' money is being applied to it (from South Australia), it is a public work. This government has chosen to ignore that definition and claim the opposite in both cases—that if it is on land of the crown, it does not matter so long as the money was not the crown's money. The Attorney-General in the other place explicitly said that if it was $4 million, regardless of whose money it was (private or public or any combination of the two) it was a public work because it was on crown land. He said that and he moved an amendment to make that clear. And Stephen Baker incorporated those statements in his second reading speech. The Crown Solicitor made an explicit statement of the same thing in fact, as advice to cabinet ministers, yet the government has chosen to ignore that.

The government says that, if it is not government money, but if it is on crown land and is worth more than $4 million, it is not a public work, and so it has not referred those projects which it would feel embarrassed about. In another instance, it is $4 million: indeed, the Football Park grandstand is $12 million, but it did not come to the Public Works Committee. That is a breach of the law by the government because it suited the government. My point is that the government does what it suits itself to do, if the law will allow it, and officers of the government do likewise.

Debate adjourned.

ADJOURNMENT

At 12 midnight the House adjourned until Thursday 15 November at 10.30 a.m.