LEGISLATIVE COUNCIL

Wednesday 25 October 1989

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

PAPERS TABLED

The following papers were laid on the table:

By the Minister of Tourism (Hon. Barbara Wiese):

South Australian Egg Board—Report, 1988-89.

Tourism South Australia—Report, 1988-89.

By the Minister of State Services (Hon. Barbara Wiese):

State Services Department—Report, 1988-89.

QUESTIONS

ST JOHN AMBULANCE SERVICE

The Hon. M.B. CAMERON: I seek leave to make a brief explanation before asking the Minister representing the Minister of Health a question on the St John Ambulance Service.

Leave granted.

The Hon. M.B. CAMERON: Last Saturday night I understand a road accident occurred at Fulham Gardens resulting in four occupants of a car being injured. A St John ambulance volunteer crew from the Fulham St John's centre attended the scene and, after a quick assessment, found one male patient to be suffering with head injuries and lapsing in and out of consciousness, with three other patients sustaining various lesser injuries. The volunteer crew removed the most seriously injured patient from the crashed car and prepared him for transportation to hospital, but waited while backup ambulances arrived to carry the other injured away.

When a second crew arrived, it was staffed by paid employees which, I am told, appeared to be more interested in 'splitting crews' rather than the welfare of any of the injured patients. (This is a practice whereby career and volunteer staff work alongside one another in transporting patients to hospital.) I am told that at no point did the paid staff ask about the welfare of the patient, but were more interested in arguing with the volunteer staff about who would do what. The career staff then took the most seriously injured patient to the volunteer's ambulance, and subsequently started to monitor the patient's condition with a 'life pack'. The monitoring, incidentally, was reported to have been carried out by a paid officer not qualified in the life support 'Echo' recovery procedures.

The volunteer crew subsequently transported one of the non-urgent patients to the Queen Elizabeth Hospital, arriving well before that manned by career staff, which had assumed charge of the seriously injured patient who had been classified as a priority one case, that is, an emergency. At the Queen Elizabeth Hospital the volunteer ambulance crew was further subjected to a bombastic approach by career staff who had attended the accident scene, again on the issue of whether or not crews should be 'split'. Will the Minister investigate allegations that last Saturday night a serious disruption in the quick transportation of a seriously injured car accident victim was caused by paid St John Ambulance staff arguing with volunteers at the crash scene about the manning of ambulances?

The Hon. BARBARA WIESE: I will refer the honourable member's question to my colleague in another place and bring back a reply.

MURDER SENTENCES

The Hon. K.T. GRIFFIN: I seek leave to make a brief explanantion before asking the Attorney-General a question on sentencing.

Leave granted.

The Hon. K.T. GRIFFIN: Trevor James Hoare was sentenced to life imprisonment for murder in August 1988. When imposing a non-parole period of 15 years (which meant under the Government's parole system 10 years in prison) the sentencing judge said:

> You are 47 years of age. You have been in no trouble with the police. Apart from your excessive drinking, you were of good character and have been an excellent worker. You have led a useful working life. You are not to be punished now for your matrimonial neglect but only for your crime. The usual aggravating circumstances do not exist in your case as often exist in such cases. Death is often a culmination of a long history of cruelty and physical violence by a husband towards the wife. That is entirely absent here. This is a very sad case. Your daughter said, and I accept her, that deep down, apart from the eroding effects which intoxication had upon your marriage, you loved your wife and your wife loved you. But she eventually found that it was useless going on.

Later in his sentencing remarks the judge said:

> I am satisfied you will never offend again in a violent way, or in any way again, after your release. Your prospects for rehabilitation are much better than most. You need no personal deterrent against future violence, because you have not been given to violence, even when drunk. Your terrible conduct that night was entirely out of character. Nevertheless, the public interest requires—and you recognise this fact—that you must be punished for the dreadful crime of strangulation of your helpless and unresisting wife. She was blameless in the incident. She gave you no cause to do what you did.
>
> Other women living with their drunken husbands, or drunken and violent husbands, must be protected as far as possible by the strong deterrent of a substantial custodial non-parole period, which must reflect a balance, on the one hand, between your punishment, protection of other women and a deterrent of others, in the public interest and, on the other hand, factors personal to you, the stress you were under on that night, the unexpected suddenness of your wife's lapsing into unconsciousness and the situation you found yourself in, which you continued. The non-parole period must also take into account your remorse and the hopes of rehabilitation as a human being.

In imposing sentence the trial judge took into consideration the submission of Hoare's counsel, Mr Brian Martin, QC. Those submissions were extensive and were reflected in the judge's sentencing remarks. Part of Mr Martin's submission states as follows:

> MR MARTIN: ... There may well have been a loss of self-control but nevertheless still an intent to cause serious harm. What we put is that this is a case that goes well beyond, colloquially speaking, 'losing their temper', so that if your honour looks at those circumstances, the intoxication, the loss of self-control, the low point in his life, the very lowest end of the scale of seriousness. Therefore, for that reason alone, one is at the lowest end of the scale of non-parole periods, and for the other reason, that this is a case where your honour can be well satisfied that this is a man of previous good character who will not offend again, who is a real candidate for rehabilitation. Therefore, for all of those reasons, we urge upon your honour that it is at the very lowest end of the scale in terms of the fixation of non-parole period.
>
> HIS HONOUR: Mr Rofe, do you wish to say anything?
>
> MR ROFE: No, in general terms I agree with what my friend has said.

Mr Rofe is the Crown Prosecutor. Mr Rofe made only a few remarks, none of which sought a tougher penalty. Mr Rofe even suggested that this 'may be an appropriate case to backdate' the sentence, nine months to take into account

the period in custody. Mr Rofe's submission in 1988 was limited to about a dozen lines.

Reference was made by way of comparison to a 1986 murder case of *R. v Perks* where a man strangled his wife in circumstances where there was a history of violence towards the wife and where the non-parole period was fixed at 18 years (effectively 12 years in gaol). If the Premier and Attorney-General are now so outraged by the decision yesterday of the Court of Criminal Appeal reducing effectively Hoare's time in gaol from 10 years to 8 years, why did not the Crown Prosecutor make submissions on the sentencing of Hoare; why did not the Attorney-General appeal against the original non-parole period in August 1988; and why did he not appeal against the effective 12 years in prison imposed in the 1986 case of *R. v Perks*?

The Hon. C.J. SUMNER: The Hon. Mr Griffin is trying to wriggle off the hook on which he has put himself and the Liberal Party in this case when they played politics with the sentencing and penalties in this State. The South Australian public should now know that, when this issue is raised, as it undoubtedly will be during the ensuing years, the Liberal Party is not interested in ensuring proper adequate sentences for serious offences. You had your chance to ensure that the sentences imposed—

Members interjecting:

The PRESIDENT: Order! I call the Council to order. The Attorney-General is on his feet and he would do better if he addressed the Chair.

The Hon. C.J. SUMNER: You had your chance to ensure the maintenance of those sentences handed down after December 1986 when the legislation to give effect to what the Parliament originally intended was introduced into this Chamber, but you rejected it, so don't come into this Parliament or go out into the community, as have Liberal Party candidates, and talk about the Labor Party's lenient parole laws. You know that those parole laws are not lenient; you know that they are fixed by the court and that there is a definite system of sentencing in this State.

Members interjecting:

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

The Hon. C.J. SUMNER: The honourable member knows that there is not a discretionary parole system and that the courts set the penalties. The courts know how long the prisoner will spend in gaol, how long they will spend on parole and that remissions are to be taken into account. From December 1986 until June 1989 the Supreme Court in this State took into account the fact that remissions were earnt off the non-parole period, as they were mandated to do by the legislation passed in December 1986. That led to an increase in sentences—something that I thought the shadow Attorney-General (Hon. Mr Griffin) had long argued for, but apparently not. That result having been achieved following legislation passed in this Parliament, when we introduced legislation to validate that situation to ensure those higher sentences were maintained, you, for your own political purposes, decided to oppose the legislation.

Members interjecting:

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

The Hon. C.J. SUMNER: You, for your own political purposes, opposed that legislation, quite simply because you wanted to have prisoners released early over this period. You all thought that it would be good politics to blame Government members—

Members interjecting:

The PRESIDENT: Order! The Council will come to order. The question was asked properly and it should be answered in the same way.

The Hon. C.J. SUMNER: That, Mr President, is the truth of the matter and that is why members opposite have a guilty conscience about it. They wanted a political situation whereby, at a sensitive political time, they could blame the Government for releasing prisoners. That should not have been allowed to happen. Members opposite should have dealt with the matter on the basis of principle and not their own politics. Had they dealt with it as a matter of principle, they clearly would have tidied up the legislation which was intended in December 1986 and which achieved the objective I thought members opposite wanted.

It achieved your objective and, when we introduced legislation to ensure that that objective was maintained, you ran for cover. You scuttled away because you saw it in your own political interests, and that is the situation. As a result, an enormous amount of public time and resources have gone into dealing with these cases—probably in excess of half a million dollars.

The Hon. K.T. Griffin: That is absolute nonsense.

The Hon. C.J. SUMNER: I am sorry; that is absolutely true.

The Hon. K.T. Griffin: It's nonsense, and you know it.

The Hon. C.J. SUMNER: I am sorry; the Hon. Mr Griffin says that figure is nonsense; it is not nonsense. If one takes into account the court time, the prosecutor's time, the Legal Services Commission's time dealing with some 300 applications to the commission to have sentences reduced, then one easily gets to a figure of $500 000. You can say it is rubbish as much as you like. I can establish for you that that is the case. The Legal Services Commission has asked for more money from the Government to cover—

The Hon. K.T. Griffin: How much?

The Hon. C.J. SUMNER: It is not $500 000, for the Commission alone of course. I can assure you of that. I will give you the figures when the whole thing is sorted out. It has asked for more money. Unless the Government coughs up and supplements the Legal Services Commission, other well deserving people out in the community will not be able to get legal aid because of the attitude of members opposite to this matter.

It was an extraordinary explanation by the Hon. Mr Griffin. He referred to the judge's comments about the effects of intoxication as being a mitigating factor in reducing the sentence. I have heard him come into this House time and time again and talk about how intoxication should not be a mitigating factor in determining sentences.

Members interjecting:

The PRESIDENT: Order! If honourable members want to hear the answer I suggest they do not interject so much. If they do not want to hear the answer, I suggest the Attorney-General does not pursue it.

The Hon. C.J. SUMNER: I will answer the question. However, the matter needs to be put into context. So, the Hon. Mr Griffin, the shadow Attorney-General, referred to the remarks of the judge relating to intoxication as being a justifiable mitigating factor, and the judges do take that into account in arriving at a sentence, but the honourable member has used it as a justification for the lower sentence that was imposed.

The Hon. K.T. Griffin: I didn't say that.

The Hon. C.J. SUMNER: Well, then, if you were not using it as a justification, why did you refer to it? The end result was a lower sentence, and an even lower sentence now as a result of your actions in not supporting the Government's legislation.

The Hon. K.T. Griffin: Why didn't you appeal in the first instance?

The Hon. C.J. SUMNER: There is a very simple answer to that which I will get to. The fact is that, because section 302 was operating in the period from December 1986 until June 1989, higher tariffs were being awarded by the courts. We did not expect the Liberal Party or the High Court to come along and undermine those sentencing principles as the Liberals did with the sentencing legislation last year. It is very obvious. The original decision of Justice Jacobs in the Perks case was in fact 12 years. There was a subsequent retrial—

Members interjecting:

The Hon. C.J. SUMNER: I know, and in the second case—

Members interjecting:

The Hon. C.J. SUMNER: I know it was the retrial; I am just explaining. In the second case, it was put up to 18 years. Certainly, I was most disturbed by the fact that the original sentence in the Perks case was only 12 years and, had that conviction been maintained, an appeal would have been lodged. In fact, I think one was lodged but not proceeded with, because the conviction was set aside. On the retrial, the judge ordered a higher sentence. My advice was that the higher sentence was within the range of possibilities.

With respect to the Hoare case, the problem now facing the Crown is that for all that period it was operating on the assumption that section 302 would operate. Now, section 302 is not operating in any of those cases. Had it not been operating during that period, undoubtedly there would have been cases where the Crown would have appealed.

An honourable member: Are you happy with 15 years?

The Hon. C.J. SUMNER: The honourable member is quoted in the *News* today as saying that he is happy with the existing sentence and that that is all he should have got, anyhow.

An honourable member: I didn't say that.

The Hon. C.J. SUMNER: That is what is in the *News*; you had better check.

The PRESIDENT: Order! If the honourable Attorney-General would address the Chair, he would do better.

The Hon. C.J. SUMNER: I agree and, if honourable members opposite would stop interjecting, we could get on with the business of the Council.

An honourable member: If you stop posturing.

The Hon. C.J. SUMNER: I am not posturing.

The PRESIDENT: Order!

The Hon. C.J. SUMNER: It is a simple proposition that the Crown throughout that period was operating on the assumption that section 302 would operate.

An honourable member: No decent lawyer would agree with your stand.

The Hon. C.J. SUMNER: That's just not true.

Members interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: Even in the case that gave rise to this situation (the Easton case), the Crown had argued for a general increase in tariff for armed robbery. The Supreme Court said it would not agree to the general increase in tariff because of the operation of section 302. Because section 302 was operating, it was unnecessary to appeal the cases on the basis of general tariff because the tariff had already been increased. The ground has been totally undercut—

The Hon. K.T. Griffin: That's nonsense. It's got nothing to do with it.

The Hon. C.J. SUMNER: It has absolutely everything to do with it, and I am astonished that the honourable member cannot see that it has everything to do with the situation. The fact is—

Members interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: The fact of the matter is that, in Hoare's case, a sentence of 15 years was handed down; that is, the sentence took into account section 302, and the non-parole period has now been reduced to 12 years. That is, there has been an effective reduction in the time that Hoare will spend in prison, simply because honourable members opposite did not support the Government's legislation to ensure that the original sentence was maintained. I assure the Council that, had the original sentence involved a non-parole period of 12 years, an appeal would have been lodged.

Members interjecting:

The Hon. C.J. SUMNER: I will repeat it; you do not seem to understand it. Throughout this period—2½ years—the Crown worked on the basis that section 302 would operate and unfortunately, as a result of actions by members opposite with regard to offenders sentenced during that period, it will not now operate, and that is the problem. In general principle, I do take issue with the notion—which, I believe, was evident in Justice Jacobs' decision in the Perks case—that, if it is a domestic case, it automatically is at the lower end of the scale. Frankly, I do not accept that. I believe that is an argument which has to be challenged. I also believe that domestic cases need to be treated—

The Hon. K.T. Griffin: Why didn't you challenge it then?

The Hon. C.J. SUMNER: Because section 302 effectively operated to increase the sentence.

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: Mr President—

The PRESIDENT: You would do better if you did not acknowledge the interjections and addressed your remarks to the Chair.

The Hon. I. Gilfillan interjecting:

The Hon. C.J. SUMNER: I would love to listen to the President's advice if only honourable members opposite would do likewise. I believe that the assumption which the courts have, namely, that if it is a domestic murder it is automatically at the lower end of the scale ought not be supported.

The Hon. K.T. Griffin: You have supported it so far.

The Hon. C.J. SUMNER: I have not supported it so far. I was certainly going to challenge that statement in the Perks case, had the decision of Justice Jacobs been maintained.

The Hon. Diana Laidlaw: That is all very well in hindsight.

The Hon. C.J. SUMNER: It is not in hindsight. You are quite wrong.

Members interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: A Crown appeal was lodged in that case, so I do not know what you are talking about. That is the situation. In Hoare's case an appeal was not lodged originally because section 302 was operating. I suggest that in a number of other cases decided from December 1986 to now appeals were not lodged because they knew that section 302 was operating; that is the problem. The fact is that it is not operating and these sentences are being reduced, and the blame must be laid fairly and squarely with members opposite.

SOUTH AUSTRALIAN PRODUCTS

The Hon. L.H. DAVIS: I seek leave to make a brief explanation before asking the Minister of Tourism, repre-

senting the Minister of State Development and Technology, a question about the promotion of South Australian products.

Leave granted.

The Hon. L.H. DAVIS: It appears that South Australia trails other States in providing free of charge promotional material for South Australian grown produce or South Australian made products, including manufactured products and products for the tourist market such as crafts. My attention was drawn to this fact by a recent visit to Tasmania where it became obvious that that State was making a very real effort to promote Tasmania produced products.

In fact, for the past 12 months the Tasmanian development authority has been providing free stickers for its products in an active effort to promote its products. That is also matched in Queensland where logos are supplied free of charge by the Department of Industry and Development which encourages the promotion of Queensland products. The Queensland-made symbol is available for any product made in that State, and that symbol can be included on any label, and a subsidy of half the cost of the label design, including finished art to negative stage, up to $250 is provided.

Between 1972 to 1982 the Development Commission in Western Australia has provided stickers free of charge. Because it has become so acceptable in that State they no longer need to do it. It is now well entrenched and is incorporated into the packaging of Western Australian products. In South Australia we have the SA Great campaign, and I must pay a tribute to it in promoting pride and confidence in South Australia in encouraging enterprise. However, for someone with just one to 10 full-time employees there is a $100 joining fee and a $550 per annum cost. So, there is nothing free about getting SA Great promotional material—not that I wish in any way to be critical of the SA Great campaign.

As we search to strengthen South Australia's identity amongst tourists and also as a centre for design and excellence in manufactured products, there is a strong argument that this Government has neglected to promote South Australian products sufficiently compared with Tasmania, Queensland and Western Australia, to name just three States. Will the Government investigate as a matter of urgency an appropriate logo for the promotion of South Australian produce or products either through the existing SA Great organisation or by some other means?

The Hon. BARBARA WIESE: I will be happy to refer the honourable member's question to my colleague in another place and bring back a reply. It is important to point out that the South Australian Government has already undertaken considerable work since it took office in an attempt to provide a greater focus on South Australian producers and products and has taken a number of steps to promote South Australian businesses.

One area in which I have some involvement is in the procurement of public sector products and services through the work of the State Supply Board. In recent years Government agencies have been asked to prepare forward procurement programs to try to predict some time in advance the needs of particular Government agencies into the future. As a result, those South Australian companies that have some expertise or the capacity to provide or produce such equipment or services have some prior knowledge and are in a position to gear up and be in the race for Government contracts. That is one very positive step that has been taken within the South Australian public sector to enable South Australian companies to improve their business opportunities within this State. I will refer the honourable member's questions to my colleague in another place and bring back a reply.

HOMESTART

The Hon. I. GILFILLAN: I seek leave to make a brief explanation before asking the Minister of Tourism, representing the Minister of Housing and Construction, a question on HomeStart.

Leave granted.

The Hon. I. GILFILLAN: In response to a letter of mine the current Minister of Housing and Construction (Hon. T. Hemmings) wrote to me in July 1987 with details under the title, 'Home ownership made easier guarantee program'. There are three limbs: mortgage relief scheme; interest rate protection plan; and a refinancing scheme. The program was proposed as a substantial Government venture into relieving the pressure on home owners in a critical situation with debt and increasing interest rates. I get the impression from people in this area that with a lot of fanfare and rhetoric this scheme has been negatively funded and has left most people (very few were ever described as being eligible, anyway) no better off than they were before.

Many people viewed with great cynicism the fanfare and promise of HomeStart. Honourable members will recall the banner headlines of $1 billion to relieve home interest rate pressures and to allow couples in South Australia to purchase their own homes. Advice I have received in the past day or two indicates that none of the $1 billion is yet available for the HomeStart program. Indeed, it has been verified that applicants must wait six to seven months before their applications are even considered. At the same time I understand that the Minister, in some desperate attempt to redeem the image of HomeStart, has indicated that there will be a public event to announce the first recipients of the HomeStart program.

It is my impression, from inquiries I have made, that HomeStart is running on empty coffers (in fact, it is doubtful whether it is running at all) and that the banks do not want anything to do with it. It seems to me and to others who have looked with hope to this scheme that it is a spectacular piece of election propaganda, prematurely promoted. With the Government's assurance that $1 billion was available for the program, many questions are as yet unanswered.

In relation to the HomeStart program, how many applications have been received and how many have been approved? Have financing contracts been signed with any financing authorities, understood to be the State Bank, the Hindmarsh Building Society and the Co-op Building Society? If there is funding of $1 billion, why is there a delay of six to seven months before the loans become available? What interest rate will be charged on the loans? My information is that HomeStart will be limited to only six areas. What are these areas and why is it limited to those areas? Is it true that the Minister has arranged a public presentation of the first HomeStart loan granted or is it just a cruel hoax to raise people's expectations before the next State election? Finally, is the Bannon Government lobbying the Federal Government to reduce the global interest rate, in particular on home loans, and, if not, why not?

The Hon. BARBARA WIESE: It is remarkable to see the extent to which the honourable member wishes to denigrate a scheme which I believe has been accepted and supported universally in South Australia. Perhaps it is a matter of sour grapes on the part of members opposite generally that they were not able to think of such a scheme themselves.

Some of the questions asked by the honourable member seem remarkably similar to questions he has already asked in this place in the past couple of weeks. However, I will be happy to refer all questions to my colleague and I am sure that the Minister will provide suitable replies as soon as possible.

LIBERAL ELECTION MATERIAL

The Hon. T.G. ROBERTS: I seek leave to make a brief explanation before asking the Attorney-General a question on election material.

Leave granted.

The Hon. T.G. ROBERTS: Recent material distributed by the Liberal Party candidate, Mr Michael Armitage, in Adelaide—

Members interjecting:

The PRESIDENT: Order!

The Hon. T.G. ROBERTS: —refers to the rising incidence of juvenile crime. Will the Attorney-General comment on this matter and provide the Council with any information concerning juvenile crime rates and trends in South Australia in recent years?

Members interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: I live in the electorate of Adelaide and I assume that this propaganda on behalf of the Liberal Party is being distributed in other electorates around the State. I have referred to the earlier material relating to Labor's lenient parole system and completely debunked that proposition.

Members interjecting:

The Hon. C.J. SUMNER: If I have not, then honourable members opposite do not understand the parole system.

Members interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: The Shadow Attorney-General does not understand the parole system when he refers to it as 'Labor's lenient parole system'. The fact of the matter is that the courts determine the time that prisoners spend in gaol. It is a determinative system. The extent to which prisoners spend time in prison or on parole is entirely a matter for the courts, as a result of the legislation introduced in 1983. It is certainly not a lenient parole system. It is a determinative system of sentencing whereby the courts exercise their proper function and determine the sentences.

The other matter refers to the rising incidence of juvenile crime. I seek leave to have inserted in *Hansard* a table indicating the number of juvenile offenders from 1982 to 1988. The source is Police Department statistics. I also seek leave to have inserted in *Hansard* a table showing the proportion of offenders under the age of 18 detected for various offences from 1979-80 to 1987-88. The source is Police Department annual reports.

Leave granted.

No. of Juvenile Offenders—1982 to 1988
Source: Police Department statistics.

Year ending 30 June	OFFENCE						
	Rape/ Attempt	Serious Assault	Robbery	Break & Enter	Larceny	Motor Vehicle Theft	Fraud
1982	24	88	66	1936	4581	581	271
1983	23	83	59	1890	4870	596	255
1984	32	93	69	1780	4915	642	244
1985	21	95	69	1797	4698	721	307
1986	24	95	77	1645	5126	998	287
1987	48	103	78	1618	5081	799	271
1988	25	90	66	1578	4646	875	226

The following table and the attached graphs show the proportion of offenders under the age of 18 detected for various offences from 1979-80 to 1987-88 (Source: Police Department annual reports).

Year ending 30 June	OFFENCE						
	Rape/ Attempt	Serious Assaults	Robbery	Break & Enter	Larceny	Motor Vehicle Theft	Fraud
1980	30.2	16.9	29.0	62.6	49.4	58.1	22.2
1981	15.7	18.4	34.5	66.0	53.3	56.9	26.8
1982	21.2	22.9	45.2	69.0	51.6	57.6	27.0
1983	21.1	19.0	39.6	63.9	47.9	57.7	23.6
1984	18.5	18.8	35.8	59.9	46.7	55.6	21.4
1985	15.8	16.1	35.0	60.5	46.6	59.2	23.3
1986	14.9	14.4	34.2	57.9	48.3	58.2	20.4
1987	22.9	14.7	30.7	54.1	46.0	51.5	20.0
1988	12.8	12.0	27.6	51.3	44.8	54.3	17.6

The data show that the proportion of juveniles detected was lower in 1987-88 than in 1979-80 for every offence category. In some offence categories there have been significant reductions in the proportion of juvenile offenders detected, for example, rape and attempted rape, and break and enter.

The Hon. C.J. SUMNER: If one looks at the incidence of juvenile offending in absolute terms from 1982 to 1988 for rape/attempt, serious assault, robbery, break and enter, larceny, motor vehicle theft and fraud, it can be seen that there has not been (apart from motor vehicle theft) an appreciable increase. As I said, the only area where there has been a significant increase is motor vehicle theft. So, the conclusion from the table is that the level of juvenile offending during that period remained relatively static. In some areas, the rates of offending are lower in 1988 than in 1982.

If one looks at the table relating to the proportion of offenders under the age of 18 detected for various offences, one notes that it shows that the proportion of juveniles detected was lower in 1987-88 than in 1979-80 for every offence category. In some offence categories there have been significant reductions in the proportion of juvenile offenders detected, for example, rape/attempt and break and enter. So, in both tables the notion of a dramatic increase in juvenile crime is certainly not sustained.

The other matter I wish to refer to in this context is the use of statistics. One has to be very careful about the use of criminal statistics, particularly interstate comparisons. South Australia is one of the States that does not make any attempt to hide or downgrade the statistics relating to criminal offences, unlike the situation in Queensland as detected by the Fitzgerald Commission inquiry. In February 1987, the *Advertiser* reported that South Australia had a disturbing youth crime problem.

The claim derived from figures published by the Australian Institute of Criminology, which suggested that for 1983-84 South Australia had 97.4 youth arrests per 100 000 population. The national figure was 59. South Australia's figure was higher because it included all young people coming into formal contact with police, that is, those arrested and those not arrested but summonsed to appear at a subsequent date. Other States, such as New South Wales, confined the figures solely to the minority; about 20 per cent of young people who had been formally placed under arrest. Offenders issued with summonses, cautioned, etc were not included. This ensured that the New South Wales youth crime rate appeared much lower.

So, there are two points. First, basically the figures do not show a dramatic increase in juvenile crime between earlier this decade and 1988. In fact, generally the rates have been reasonably steady. Secondly, with respect to interstate comparisons, the examples I have given mean that caution must be shown by members in dealing with this particular issue.

HOPE VALLEY RESERVOIR

The Hon. J.C. BURDETT: Has the Minister of Local Government, representing the Minister of Water Resources, a reply to the question I asked on 11 October about the Hope Valley Reservoir?

The Hon. ANNE LEVY: I seek leave to have the reply inserted in *Hansard* without my reading it.

Leave granted.

I have been advised by my colleague, the Minister of Water Resources, that on the first occasion sewage overflowed from the Boundy Road Sewage Pumping Station when both pumps malfunctioned as a result of the pumps being choked due to rags collecting in the impeller of each pump.

On the second occasion, investigation of the situation revealed that sand had entered the sewerage system from a recently completed land division. Damaged sewer risers had allowed sand to enter sewers. This caused sand to build up in the wet well sump of the pumping station and literally 'drowned' the pumps. The presence of the sand was not evident at the time of the first blockage and was only revealed when the pumps were subsequently removed for inspection following the further malfunction.

Contrary to the honourable member's understanding, sewage was not diverted to the Torrens River, nor did it enter the river. The two drains meeting below the dam wall collect stormwaters from Awoonga Road and divert them around the reservoir. There is also a cut-off drain alongside the aqueduct at Highbury to intercept local run-off. The two drain systems are not connected. Consequently, sewage overflows from the Boundy Road pump station cannot find its way into the swamp adjacent to Lyons Road.

The Minister of Water Resources informs me that there are no dams on Engineering and Water Supply Department land along the route of the watercourse that runs from the Lyons Road swamp to the Torrens River. Having set the record straight, the answers to the specific questions asked are as follows:

26 September

1. As no raw sewage entered the Torrens River either intentionally or accidentally, the question of it being an acceptable practice does not arise.

2. As explained during the Estimates Committee, no complete guarantees can be given; however, the Metropolitan Sewer Telemetry System is to be upgraded at a cost of $6 million and when implemented will enhance the early warning of potential problems.

11 October

1. While diversion of stormwaters through drains on either side of the Hope Valley Reservoir can find its way into the Torrens River, the sewage overflows referred to cannot.

2. In view of the previous answer no action in this regard is required.

3. Again, no action is required.

GOVERNMENT LAND

The Hon. J.F. STEFANI: I seek leave to make a brief explanation before asking the Minister representing the Minister of Lands a question about the sale of Government land.

Leave granted.

The Hon. J.F. STEFANI: On 19 May 1988 the Government sold a parcel of land known as allotment No. 1 at Gepps Cross to the Adelaide Produce Market, allowing it to develop new facilities and relocate its East End market facilities into the new buildings at the new site. Subsequently, on 3 January 1989 the Government sold to the Adelaide Produce Market two additional parcels of land known as allotments Nos 11 and 12. The new owners took possession of the land and recently I received information from people within the abattoirs advising me that the land had been used, over a long period, for the burial of dead animals by the nearby Government-run abattoirs. The advice I received from experts in this field is that the land cannot be used for any building development unless the large carcass bones buried below ground level all over the area are,

at great expense, dug up and removed from the site and the site then backfilled and consolidated.

Was the Government aware of the burial of dead animals? If so, did the Government make a full disclosure of the situation to the intending buyers at the time of sale? Will the Government now compensate the new owners to rid this site of one of the worst pollution problems created by a Government-run abattoirs? Will the Minister make a full disclosure to Parliament of the compensation sum payable to the new owners, and I understand it is considerable?

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

FOETUS DESTRUCTION

The Hon. DIANA LAIDLAW: I seek leave to make a brief explanation before asking the Minister of Tourism, representing the Minister of Health, a question about foetus destruction.

Leave granted.

The Hon. DIANA LAIDLAW: A foetus destruction technique known as selective reduction has recently been introduced into Australia to destroy excess foetuses in multiple pregnancies as a consequence of doctors implanting too many embryos in a woman participating in an IVF program. The selective reduction technique involves piercing the heart of excess foetuses with a needle. It is a technique which has caused much controversy overseas as it usually involves destroying healthy foetuses produced through artificial conception, particularly in IVF programs. It is also considered a dangerous technique as it causes bleeding in the woman and stimulates spontaneous miscarriages of all the foetuses the mother was carrying. The technique has been banned in the United Kingdom and yesterday the Victorian Minister of Health ordered that the conditions under which the technique could be used, if at all, in that State must be reviewed.

What is the Government's attitude on the medical, legal and ethical questions surrounding this procedure known as selective reduction? Is the practice carried out in South Australia? I have attempted to make inquiries about this matter, but I can assure members that people are not very willing to talk about this procedure. If it is carried out in South Australia, will the Government act to have it stopped? If it is not, will the Minister ask the Reproductive Technology Council to investigate the practice with a view to ensuring that it cannot be used in South Australia?

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

LOCAL GOVERNMENT ADVISORY COMMISSION

The Hon. J.C. IRWIN: I seek leave to make a brief explanation before asking the Minister of Local Government a question about Crown law advice relating to the Local Government Advisory Commission.

Leave granted.

The Hon. J.C. IRWIN: Last week, in answer to a question about obtaining Crown law advice in relation to withdrawal of a proposal from the Local Government Advisory Commission by the Henley and Grange, Woodville and West Torrens councils, the Minister of Local Government said:

It is not within the powers of councils to approach Crown law.

As I understand it, Crown law advice is being sought on this issue and, as at last Thursday, the Minister had not had the matter drawn to her attention 'in any formal way'. Does the Minister now know who initiated Crown law advice about the possible withdrawal from the Local Government Advisory Commission?

The Hon. ANNE LEVY: Yes, I made inquiries, and I understand that the Local Government Advisory Commission or its officers sought advice from Crown law as to the legal situation if a council wished to withdraw a proposal that they had already put before the Local Government Advisory Commission. Obviously, there was no reference to any particular council—it was a theoretical question as to the legal situation if any council wished to undertake such an action. They have sought Crown law advice as to the legal situation in such circumstances.

LAKE BONNEY

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister of Local Government, representing the Minister for Environment and Planning and the Minister of Water Resources, a question about Lake Bonney.

Leave granted.

The Hon. M.J. ELLIOTT: It is almost a year since I first asked some questions in this place about Lake Bonney. It has been something of a teasing process, but some answers have been provided slowly but surely.

The Hon. K.T. Griffin: You're still waiting on some?

The Hon. M.J. ELLIOTT: Still waiting on some, yes. I received a response to my question in November last year on 11 January when I was informed that to date no traces of dioxan had been found in bleached sulphite pulp in overseas tests, but that has turned out to be false. In fact, many overseas factories using the sulphite process have produced dioxans, and there was a report that nothing so far had been found in Lake Bonney.

I followed up the matter with a further question and wrote a letter. I then wrote a further letter on 26 April seeking additional information from the Minister as to exactly what would be done by way of testing for organochlorins. I received a reply on 7 June which said, 'Thank you for your letter and we will write back later,' which as yet it has not done. However, on 22 September 1989 in a news release from the Minister's office there was at last an admission by the Government that organochlorins and dioxans were being found. The news release said that the average level of organochlorins in the lake was 1 850 parts per billion. It also said that 2 378 TCDF, which is one form of dioxan, was found in the drain coming from Apcel at a level of 38 parts per trillion. It said that none was found in lake sediments.

I have spoken with some experts on this topic. They expressed surprise that, since TCDF was found in the drain, it was not found in the lake. They also expressed surprise about the Minister's claim that no TCDD was found, because they said it is normally found in the ratio of 10 parts TCDF to one part TCDD, so I would certainly like to ask the Minister to what levels they tested for TCDD, which is known to be damaging to living things in parts per quadrillion: testing in parts per trillion is not sufficient, according to the experts.

The Minister of Water Resources was quite happy to release large quantities of water from Lake Bonney, contrary to requests from fishermen who wanted certain experiments set up beforehand. In fact, when they threatened to take out an injunction, the Minister then counter-threatened them and said that they would be sued for non-recovery of logs in the lake and costs due to flooding. They backed off from that injunction, but I spoke with a number of them only a few days ago and they are gravely concerned about what is happening.

Using the Government's own figures, I undertook my own calculations on organochlorin levels and they suggest that, during the past 15 years, by way of water releases the Government has released into the sea about 200 tonnes of organochlorins, which is considered by experts to be an inordinately large quantity.

The Government has now apparently set up testing programs for the organochlorins and their effect on crayfish. Once again, experts are saying to me that those testing procedures look rather amateurish. One expert said that they caught some crayfish 20 miles out to sea. They then put those crayfish into pots near the entrance and they will measure the level of organochlorins taken in by the crayfish. Anybody who knows anything about organochlorins would know that most animals do not ingest organochlorins directly from water; rather, they come through the food chain and the concentrate. Although the crayfish will take in some organochlorins from the water, the experts say that, if the Government were setting up a proper experiment, it should feed the crayfish on other things that had lived there for a long time in order to establish the concentration effects through the food chain.

Finally, last week I received in the mail guidelines for an environmental impact statement that talked about doubling the size of the mill, but the mill now denies that any such thing exists, as does the Government, but I have this document in my hand. Could the Minister tell me when I will receive an answer to my letter of 1 April? Will the Government release the full experiment data and what it intends to do in all experiments, so that data can be properly analysed by the public rather than its having to guess what is being done? When will the Government officially release the guidelines for its EIS for the expansion of the Apcel mill at Lake Bonney?

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

LOCAL GOVERNMENT ADVISORY COMMISSION

Adjourned debate on motion of Hon. T. Crothers:

That this Council reaffirms its support for the independence of the Local Government Advisory Commission.

(Continued from 18 October. Page 1229.)

The Hon. J.C. IRWIN: It is not difficult for me or the Opposition to support this motion. However, I indicate that I would like to move an amendment thereto. Accordingly, I move:

To amend the motion by inserting after 'Commission' the words "and condemns the Bannon Government and the Minister of Local Government for their inept and undemocratic handling of the Mitcham debate which has put at risk the independence of the Local Government Advisory Commission".

The motion as originally moved is really a motherhood statement—

The Hon. Anne Levy interjecting:

The Hon. J.C. IRWIN: Well, a fatherhood or personhood statement. With this sort of motion I never cease to wonder about what good fortune can come our way sometimes in this place, the motion having been moved by the Hon. Mr Crothers, whose contribution to the motion went not one small step towards the justification for this Council to support the motion. Indeed, one would have thought that we should have had many words of wisdom about why we should support it.

The honourable member's motion, as well intentioned as it is, is just a vehicle for the honourable member to have a whack at a member of another place, namely, the member for Mitcham, who was and is in the heart of the debate about the future of Mitcham. I might add that it is his responsibility as the local member to represent his electors, and he certainly is representing the majority of them.

The motion is a vehicle for the honourable member to defend one of his union colleagues, who happens to be the United Trades and Labor Council's representative on the commission, and who happens to have a wellknown dislike for the Mitcham council. As I said, there was not one jot in the honourable member's contribution to enlighten honourable members here about the independence of the commission. It was all good reading, I suspect, for branches and union members to show that the Hon. Trevor Crothers is doing his job in this place. I will have to leave it to others outside this place to intrepret the validity of the words he used. I will not attempt to answer the comments made by the Hon. Mr Crothers. Rather, I will confine myself (as we all should) to the motion and the amendment that I have now moved.

What exactly are we looking at in this motion? Is it that the Local Government Advisory Commission should be independent (there is no question about that), or is it that the commission is independent? I think that is the thrust of the Hon. Mr Crothers' motion. Let us look at the notion that the Local Government Advisory Commission should be independent. There is no question that this should be so, and the best way for this to happen would be to have a commission such as a Federal and State Boundaries Commission headed by a judge.

I can understand that in 1984 the thought of the cost of this sort of commission was not far from the minds of legislators. As well, no-one probably foresaw the dramatic lift in matters of boundary changes, amalgamations, etc., before the Local Government Advisory Commission or the way in which the game plans have mushroomed since the Flinders proclamation. In other words, the thought of a permanent or semi-permanent commission was not envisaged in 1984. We know now the extent and magnitude of work before that commission, and perhaps the Minister's advisory committee which has been set up will address this matter of independence of the commission and whether it may be constructed along the lines of a Federal and State boundaries commission. The advantage of that sort of commission are obvious for those who know how they work.

The point I wish to make is that there is no room for ministerial or Government interference once the process is set in motion. Of course, there are avenues within the deliberations of those commissions for Governments, Oppositions, and other interested people to make submissions in relation to Federal and State electoral boundaries.

Just as important is the right of appeal to boundaries commission findings; this is not allowed for in relation to the Local Government Advisory Commission. This is quite different from that commission process outlined in the Local Government Act. For a start, the commission is made up in part by commissioners appointed by the Minister,

representing a range of organisations which, it can be said, sometimes have conflicting interests and sometimes competing interests, and this is not abnormal when one considers that busy and experienced people must come from somewhere. One cannot just obliterate the backgrounds that they have accumulated through their experience out in the real world.

Of the five commissioners, the Minister has the direct responsiblity of nominating three, and two are nominated from a panel. I make this point: one of those is nominated from the Minister's own department. That alone, without reflecting on any individual commissioner's ability, is a pretty precarious position and must raise questions of independence, whichever way one looks at it.

The departmental nominee must be privy to departmental work and to the aspirations and philosophies of the Government that he or she serves. That in itself is no great problem. There are conflicts of interest areas everywhere, and they are dealt with in many Bills before this Council. Simply, one declares an interest and takes whatever course is designated in the legislation, and in a lot of cases takes no part in the discussions that may cover that area of interest.

The conflict of interest provisions in the Local Government Act applying to the commission are very simple and are nowhere near as restrictive as those applying to the boards with which we dealt last week relating to soil conservation and other matters; nor indeed are they as restrictive as those in the Local Government Act applying to councils and council meetings, where councillors who declare an interest take no part in the debate and, in fact, must leave the room when that debate is in process. It is simple in the sense, as far as the commission is concerned, that a commissioner is disqualified if he or she becomes a member of a council before the commission; holds or accepts any remunerative office; or becomes interested in a contract.

These provisions are not very restrictive. I have on a number of occasions (and I know others have, too) asked the Minister of Local Government for her advice regarding an officer of her department being a commissioner, and whether there was a conflict of interest. I have not yet received an answer to those questions. There is no question in my mind that there is a moral conflict of interest, and it can follow a lack of independence, unless very strict declarations are made and adhered to. Those declarations of interest may be made but, as I said, I cannot ascertain from anyone whether they are made or recorded. The best way out of this is to follow the course of the Local Government Department head, Ms Anne Dunn, who, as a member of the State Grants Commission, declared a firm interest in favour of the Grants Commission, when the matter of funding of the Stirling bushfires was being discussed by the State Grants Commission. This is far from a perfect solution, but I cannot see how one can administer a department while declaring that interest and working for the Grants Commission.

Even if the action taken was less than perfect, at least, everyone knew exactly the position that the Director was taking. There are other problems, which I will not go into in this debate. I have to come back to my assertion that, by not declaring an interest but wearing perhaps two hats while sitting on the commission, it would make it hard for the commission to be truly independent, and to be seen to be independent. I want this motion to go further—

The Hon. Anne Levy: You are attacking public servants who cannot answer back.

The Hon. J.C. IRWIN: I am not attacking public servants.

Members interjecting:

The PRESIDENT: Order! The honourable member has the floor.

The Hon. J.C. IRWIN: I have asked the Minister over and over again for her advice regarding the declaration of interest, with her departmental nominee being on the Local Government Advisory Commission.

The Hon. Anne Levy: And I have given it.

The Hon. J.C. IRWIN: I have not seen it.

The Hon. Anne Levy: No, you don't listen, or read anything.

The PRESIDENT: Order!

The Hon. J.C. IRWIN: I am asking the question: is there a declared interest or not?

The Hon. Anne Levy: Read my ministerial statement.

The PRESIDENT: Order! The Hon. Mr Irwin has the floor.

The Hon. J.C. IRWIN: I will go back and read it; I have it here. I want my motion and my amendment to go further than the matter raised by the motion itself and to look at the behaviour of the Minister of Local Government and the Premier in recent times when dealing with the advisory commission regarding Mitcham and Flinders. I will not go into any depth about that as that has already been done, and I refrain from drawing into this debate all the other actions of the Minister in such areas as the Henley and Grange debate. By treating that debate differently from the Mitcham debate she has made the issue political and has directed the commission to have another look. I read from the ministerial statement of some weeks ago, which is not dated, when the Minister of Local Government said:

> The 1984 legislation had a clear purpose to keep State political factors out of local government boundary changes and to establish an independent, objective and sensitive system through which local government and electors could determine changes. The Government role was to be that of a facilitator or to establish the system and formally implement its decisions and monitor the smooth functioning of the process.

There is nothing in there about political interference, just the opposite, but the Minister is not sticking to her own words, and is going beyond being just a facilitator. The Government is interfering, directing and putting at risk the independence of the commission. I will not go through all the arguments that have been put during a successful censure motion in this place.

The Minister says she always follows the commission's independent advice up to this report, No. 115. Now, of course, the position is different and the previous course of action has changed. The Mitcham/Flinders proposal was proclaimed and the commission was set up again to hear the arguments pertaining to Mitcham/Flinders and to reconsider its advice. We can read daily in the press details of the manoeuvrings going on about who wants to take over Mitcham next.

The Henley and Grange advice was delivered to the Minister and sent straight back to the commission. Is that what the Hon. Trevor Crothers means by 'free of political interference'? No-one else can do that, but the Minister can do what she has done, regarding Mitcham/Flinders and Henley and Grange. These actions were pure political interference, no matter whether the decisions were good or bad. I suggest that the actions of the Minister and the Government were more predicated on political considerations than what would be better for the people in the council areas affected. We know that and so, increasingly, do the people. In a letter to the commission from the Premier of 10 August 1989, the commission is damned if it does and damned if it does not. That letter quotes the Premier as follows:

The Government believes local government boundaries should be determined on the basis of careful analysis of all relevant factors.

I have to ask why that was not done in the case of Mitcham. The Premier is clearly saying it was not done in Mitcham. The letter later states:

Following the representation made to us, the Government is particularly concerned that opposition to the city of Flinders amongst residents of Blackwood and Belair is sufficient for the city of Flinders to be unworkable.

That was after the proclamation and again is saying to the commission it has not done its work, and that the Government's methods of finding out are better than the commission's: in other words, feet on the ground at rallies. The Minister has changed the rules set by precedent and is asking—even pleading—with the Local Government Advisory Commission to get it off the hook somehow. In the middle of all the public discussions about Mitcham and Henley and Grange, the Minister set up a new committee of review, with the Minister's own nominated person as Chair, who also happened to be the Minister's nominated Chair of the commission. To me and any other fair thinking person, that is clear political interference, no matter how good are the participants or how one looks at it. Some better way could easily have been found to review the Local Government Advisory Commission without interfering with its work already in progress, and definitely not using people already commissioners, who are in effect reviewing their own work.

The motion calls for support for the independence of the advisory commission, and that means independence from political interference and direction, as well as the people on the commission being independent. The commission must not only be independent but it must be seen to be independent, but it is not being seen as independent by a vast number of people. I ask the Council to support the motion as amended.

The Hon. I. GILFILLAN: The Democrats support the motion but oppose the amendment. The motion is simple and the support that the Democrats give to it is purely to the worded text of the motion:

That this Council reaffirms its support for the independence of the Local Government Advisory Commission.

From the Democrats' point of view, if there were to be any extension it would be a recognition of the vital role that this commission plays and will play in the future. Regardless of the skirmishing and the unfortunate highlighting of current problems associated with various decisions that the commission is making, as we look down the track to the future of local government as a rising tier of government in the South Australian community scene, it will be imperative that boundary adjustments can be made from time to time on the basis of what is the best for local government and the delivery of the best form of local government for the people of South Australia.

We have fought strenuously for the option of a poll of ratepayers who are affected by any proposed change, and the basis of that poll should be an aggregate of all people affected by it. Unfortunately, that has been opposed and frustrated by the current Liberal Opposition, on the basis that it will entertain only its fragmented poll program, which virtually sentences any future boundary changes to the rubbish heap. They will not be able to pass the pressure-laden campaigning that can surround any amalgamations or boundary changes if a minority group can be frightened into believing that they will be worse off. I consider the position the Liberals have taken on this issue to be quite irresponsible. They know as well as I do that the situation will remain as the *status quo* as far as can be seen down the track.

I indicate that the Democrats, in supporting the motion, in no way want to be implicated in the text used by the Hon. Trevor Crothers when moving his motion. The Democrats wish to remain in this case and in any consideration of the work of the advisory commission away from what is the internal point scoring in this Parliament.

I must say that this is to the detriment of potential work for the commission. It is interesting to observe that for local government boundary changes we have, as a Parliament, set up a structure and expected it to take on the responsibility of this work. The Democrats hope that this will rapidly become the case after the next State election and some calm and good sense can prevail in the climate in which this commission is expected to work, especially if we compare that to the inflexibility of State boundaries. It is of interest, certainly to the Democrats, that we sit somewhat self-righteously in our tier of Government in absolutely inflexible boundaries. However, we are prepared to look with interest, but with some sort of benign condescension, on the manoeuvrings and proposed alterations of local government boundaries. If we do solve this problem—and I hope we do in the very near future—it will be an exciting challenge to see if similar flexibility cannot be applied to State boundaries.

With those remarks, I indicate that the Democrats oppose the amendment. Earlier, we did support a censure motion which indicated that we were critical of the Bannon Government and the Minister's involvement in those matters. However, we do not believe there is any point in supporting an amendment which, in our opinion, is irrelevant. The Democrats therefore oppose the amendment but support the motion.

The Hon. R.R. ROBERTS secured the adjournment of the debate.

SELECT COMMITTEE ON ENERGY NEEDS IN SOUTH AUSTRALIA

The Hon. M.S. FELEPPA: I move:

That the time for bringing up the report of the select committee be extended until Wednesday 8 November 1989.

The Hon. M.B. CAMERON (Leader of the Opposition): I move:

To amend the motion by leaving out all words after 'South Australia' and inserting in lieu thereof the words 'and the minutes of proceedings, evidence and any draft report on terms of reference *(c)* to *(f)* be extended until Thursday, 26 October 1989.'

The Hon. I. GILFILLAN: I would defer to the Minister. In fact, I am holding the debate in case the Minister wishes to speak on it. I have had some notification of it, and, obviously, if I am to speak now, I will cancel my opportunity to speak on it further.

Although I do not have a written copy of the amendment in front of me, I understand its implication. It is intended to ensure that as much as possible of the work that has been done by the committee, which was formed on my motion and which has proceeded with ups and several downs within its three years, can be salvaged and made available to this Parliament and to the people of South Australia. As no guarantee can be given by the Government that Parliament will be sitting on 8 November, I regard it as irresponsible to defer until then the presentation of the report. So, if it were able to be extended until then, any extra work done by the committee would be of increased value, but I am not prepared to take that risk.

The gamble that I would take on behalf of South Australia would be virtually to lose all on those matters if the report could not be presented because the sitting of the House had been suspended for an election. So, the Democrats support the amendment on the basis that we would rather have what is available now by way of a report for sure, rather than taking the risk that we might not be sitting, as a result of which a report could not be brought forward.

The Hon. CAROLYN PICKLES: I oppose the amendment on the basis that the report has not yet been completed. Its completion is very close, and my understanding is that the motion is merely a mechanism to keep the report alive. I believe that the Hon. Mr Cameron is seeking to table in Parliament an incomplete report.

The Hon. M.B. Cameron interjecting:

The Hon. CAROLYN PICKLES: It is a draft report. Several draft versions have been done, as is the normal practice for select committees. This one has been a complex issue, on which members are reaching a conclusion, and there has been a certain amount of agreement on this. It is my understanding that the amendment seeks merely to enable the report to be tabled in its existing form, even if a meeting occurs tomorrow morning—as members opposite are well aware—to deal with the situation.

This is an irresponsible course of action, which I deplore, because members opposite are merely using this select committee report for their own political ends. It is a very unusual procedure, but it is not one that with which we are unfamiliar. They seem to be doing this on every select committee in which they are involved. It is quite interesting that one of the members of the select committee has only recently been appointed, and I should have thought that he would like to familiarise himself with all the details surrounding this report. The reasonable course of action would be to support the original motion, because the Hon. Mr Feleppa is seeking to defer—

The Hon. R.I. Lucas: Take it out of play.

The Hon. CAROLYN PICKLES: Members opposite are saying, 'Take it out of play.' Last week in this Chamber I was approached in an unseemly manner by a member opposite because he was suspicious that the Government was going to election. I do not know when the Government is going to an election. I assume it is some time before March of next year, but one does not know when. I do not think that we should run the business of this Chamber based on the assumption that an election may be called tomorrow or next week.

The Hon. M.B. Cameron interjecting:

The Hon. CAROLYN PICKLES: I think you should ask the Premier that question, Mr Cameron.

The PRESIDENT: Order!

The Hon. CAROLYN PICKES: The Premier will indicate when he is good and ready, and you will find out along with the rest of us. It is a very irresponsible course of action but is what one would expect from members opposite.

The Hon. R.I. LUCAS: That was a very disappointing contribution by the Hon. Ms Pickles. The amendment, to which the Hon. Mr Gilfillan spoke on behalf of the Democrats, is to ensure that the whole report and transcript of evidence cannot be taken out of play or iced if an election is called this weekend. No doubt exists as to what the Hon. Ms Pickles and the Government have been up to for some time in relation to this report and select committee. Certainly I am not a member of the committee, but I have viewed with some concern the goings-on, as I understand it, by some Labor members in this Chamber, as to the whole proceedings.

The Hon. CAROLYN PICKLES: On a point of order—

The PRESIDENT: I pre-empt and uphold the point of order. The honourable member is not allowed to refer to the work of the select committee.

The Hon. R.I. LUCAS: Mr President, the Hon. Ms Pickles referred to a new member of the committee being able to read the evidence.

The PRESIDENT: She should not have done so.

The Hon. CAROLYN PICKLES: On a point of order, I did not refer to the proceedings. I merely mentioned the appointment of a new member to the select committee. I did not refer to any proceedings of the committee.

The PRESIDENT: I accept the honourable member's explanation.

The Hon. R.I. LUCAS: I did not refer to the proceedings of the select committee, either. I referred to Labor members and the goings-on of the select committee. I will not pursue it, anyway. The Hon. Mr Cameron's amendment must be passed because, if it does not pass, the Government can take out of play the whole proceedings of 3½ years work by over half a dozen members of this Chamber and it could be lost to the South Australian public and the Parliament.

I imagine that many thousands of dollars of taxpayers' money has been spent on this committee. The Hon. Ms Pickles wants us potentially to get ourselves into a situation where all of that money and all the information gathered by the select committee could be lost to the South Australian public and to the Parliament. For those reasons and those reasons alone we ought to support the amendment.

Along with the Hons Mr Elliott and Ms Pickles I was involved with the very complex Timber Corporation select committee, which went on for some time. I assure members that, when the pressure is on and you have a date by which you have to report, you work long and hard through the night and the early hours of the morning so that the report is finished. That was the case with the Timber Corporation select committee report; and it is the case with a number of other complex reports that we have brought down. I can see no reason why the report cannot be finalised by the date that the Hon. Mr Cameron has stipulated, namely, tomorrow. I support the Hon. Mr Cameron's amendment.

The Hon. G. WEATHERILL: The Opposition is being quite unreasonable about this matter, whilst saying that the Government is being unreasonable. That is not true. If members opposite were so keen on bringing down the report, one of their number would have turned up at more meetings instead of turning up at the end with about 30 amendments.

The PRESIDENT: Order! The honourable member cannot refer to the proceedings of the select committee. It is not done.

The Hon. G. WEATHERILL: I still believe that members opposite are being unreasonable. The report will not be completed by tomorrow.

Members interjecting:

The Hon. G. WEATHERILL: No it will not be completed as many amendments have to be put in.

The PRESIDENT: Order! The honourable member may not refer to the proceedings of the select committee. He may confine the debate to whether or not the report will be brought up, but not to what is happening.

The Hon. G. WEATHERILL: I support the original motion moved by the Hon. Mr Feleppa that the date for bringing up the report be extended.

The Hon. ANNE LEVY (Minister of Local Government): I wish to raise questions which you, Mr President, will need to address. If a draft report is tabled by a select committee,

does that mean that its work is at an end? Does it continue its work to obtain a final report? What is the status of a draft report tabled in Parliament? Can a draft report, which has not been voted on by the select committee as a final report, be tabled in Parliament?

As I understand it, the Standing Orders of this place outline procedures for a select committee arriving at its report. Standing Orders lay down procedures for presentation of a report by a select committee and its being tabled in Parliament. If as a result of the passing of this motion a draft report is brought into Parliament tomorrow, it is obviously not a final report as it has not gone through the procedures laid down in Standing Orders for the report of a select committee.

The Hon. L.H. Davis: How do you know that?

The Hon. ANNE LEVY: I have no idea what is happening on this select committee.

The Hon. L.H. Davis: You just presume it will not be ready. How can you say that?

The Hon. ANNE LEVY: Because the amendment refers to a draft report: it does not refer to a final report. If it has or can, between now and tomorrow, go through all the procedures set down in Standing Orders, obviously it will not be a draft report but rather the report of the select committee.

The Hon. L.H. Davis: There is nothing to stop an interim or draft report being tabled.

The Hon. ANNE LEVY: The amendment does not refer to an interim report but to a draft report.

Members interjecting:

The PRESIDENT: Order!

Members interjecting:

The Hon. ANNE LEVY: It said 'draft'—that's why I asked for a copy.

The PRESIDENT: Order! To put all member's minds at rest, the Legislative Council has control over all select committees. If it wishes, the Council can pass a motion and call for the minutes of proceedings, the evidence, the draft report or anything else. That does not stop the select committee from sitting and bringing up a report. However, the Council is also at liberty to direct that it does not want a committee to go any further. The Council is master of its own destiny in regard to select committees.

The Hon. ANNE LEVY: Following the tabling of a draft report, can the committee continue?

The PRESIDENT: Yes.

The Hon. ANNE LEVY: And will continue?

The Hon. R.I. Lucas: Of course it can.

The Hon. ANNE LEVY: I am not asking you.

The PRESIDENT: Yes. The only reason for its not continuing is the Council not giving it a further extension. The Council must give it a further extension for it to continue.

The Hon. ANNE LEVY: So, the committee's tabling of a draft report will mean that the committee is still in existence?

The PRESIDENT: If the Council gives it leave to sit further and bring up a report at a later date. The report is due to come up today. If the Council does not extend that date it will not come up. If this amendment goes through, tomorrow the committee brings up and tables all the drafts and documents and seeks leave to sit again. If the Council does not give it leave it will not sit again. If the Council gives it leave, it sits again and brings back a report on a date to be decided by this Council.

The Hon. ANNE LEVY: If it is merely a tabling of the documents—

The PRESIDENT: I cannot guarantee that the Council will give you leave to sit again and bring in the report.

The Hon. ANNE LEVY: That will have to be moved as a motion?

The PRESIDENT: That is for the Council to decide.

Members interjecting:

The PRESIDENT: Order! This is fairly complex.

The Hon. ANNE LEVY: It would require a specific motion for such a select committee to continue?

The PRESIDENT: Yes. It would require a motion desiring it to bring up a report on a certain date. The Council would have to approve the extension of the time to bring up the report. If it does not extend it then there is no select committee to sit to bring up a report.

The Hon. ANNE LEVY: I feel it is worth raising these questions, Mr President, so that all members are fully aware of the situation and that those people who want to see a draft report tomorrow, I presume, will still want a final report. So they will, I presume, enable the select committee to continue in existence to bring up a final report which can, of course, be totally different from a piece of paper tabled as a draft report.

The PRESIDENT: You are right. I cannot look into the mind of members. It is up to them tomorrow what they will do.

The Hon. I. GILFILLAN: I refer you, Mr President, to Standing Order 412 as being helpful under the circumstances.

The PRESIDENT: That is no more than I have explained to the Minister.

The Hon. M.S. FELEPPA: The motion I move is quite clear and I stand by that motion. I am in the judgment of the Council.

The Council divided on the Hon. M.B. Cameron's amendment:

Ayes (11)—The Hons J.C. Burdett, M.B. Cameron (teller), L.H. Davis, M.J. Elliott, I. Gilfillan, K.T. Griffin, J.C. Irwin, Diana Laidlaw, R.I. Lucas, R.J. Ritson and J.F. Stefani.

Noes (8)—The Hons T. Crothers, M.S. Feleppa (teller), Anne Levy, Carolyn Pickles, T.G. Roberts, C.J. Sumner, G. Weatherill and Barbara Wiese.

Majority of 3 for the Ayes.

Amendment thus carried; motion as amended carried.

CURRICULUM GUARANTEE PACKAGE

Adjourned debate on motion of Hon. R.I. Lucas:

That this Council:

1. Expresses its opposition to the education implications of the Bannon Government's supposed 'curriculum guarantee' package.
2. Calls on the Bannon Government to take urgent action to make significant changes to its policy so that an educationally better curriculum guarantee package can be introduced.

(Continued from 11 October. Page 1045.)

The Hon. G. WEATHERILL: When the Hon. Mr Lucas first rose to move this motion he prefaced his remarks with the usual allegations about teacher numbers and, once again, tried to ignore the reality of the enrolment decline. He compounded his error when he resumed to speak the following week and tried to dismiss the decline of 23 000 students over the past six years. He grudgingly admitted, in his words, 'That is approximately the correct figure.'

Let us leave aside Mr Lucas's attempt to denigrate State schools by alleging that half this decline was caused by people leaving the Government school system because of dissatisfaction and going to non-Government schools. Let us look instead at the Liberal's record of coping with enrolment decline. I am constantly surprised that the Hon. Mr

Lucas persists with this line of criticism, when he must know that his own Party's record in this area is abysmal. As Mr Lucas himself said in this Chamber on 23 August in the debate about the Pinnaroo Area School, enrolment decline is not a new phenomenon.

The actions of the Liberal Government in trying to cope with enrolment decline in the Dark Ages between 1979 and 1982 were disastrous for education in South Australia. But let us not just take my word for it. Let us look at what the people in the best position to know said about the Liberal's record and what the teachers said. I will quote from an article in the Journal of the South Australian Insitute of Teachers dated 22 November 1985. The article was titled 'Labor's education record'. The article starts with some comments about the Liberal's record. It states:

> The Liberal Government's philosophy was to cut spending in line with enrolment decline. Under two Liberal budgets, 556 teachers, 124 ancillary staff and 90 adviser positions disappeared.

The article continues:

> In 1981, 70 per cent of the State's pre-schools and kindergartens suffered a greater than 50 per cent cut in operating grants.

However, the article leads into its comments about the Labor Government's record with this statement:

> Labor coming into office in 1982 promised to maintain teacher numbers despite falling enrolments. It has kept that promise. This represents 1 000 jobs which would otherwise have been cut.

This article makes it clear that the Liberals used the enrolment decline as an excuse to cut teacher numbers—556 according to the Institute of Teachers—plus 124 ancillary staff, plus 90 advisers, and all this in just two budgets.

Even if Mr Lucas's worst allegations were true about the Bannon Government's record, it would still be better than the Liberal Party's record where it decimated the education work force in just two budgets, but Mr Lucas's allegations are not correct. The Bannon Government has used the enrolment decline to retain freed up teachers. The anticipated decline of a further 2 000 students in 1990 will 'free up' about 130 teacher postions. These positions also will be kept, bringing the number of teacher positions kept in the school system since 1983 to more than 980.

What hypocrisy we see here. Mr Lucas pathetically bleats about teacher numbers and ignores enrolment decline, when his own Party used enrolment decline to slash teacher numbers when they were in power. It confirms the Liberal pattern we see elsewhere: for example, the Greiner Government's first major contribution to the progress of education in New South Wales was to slash over 2 000 teaching jobs and axe many important programs.

The Hon. Diana Laidlaw: Don't you read the Victorian newspapers?

The Hon. G. WEATHERILL: They are going well, aren't they?

The Hon. Diana Laidlaw: Not with slashing teacher numbers.

The Hon. G. WEATHERILL: I say again, the 130 teacher positions freed up by the enrolment decline in 1990 will be retained. That means the Bannon Government will have kept over 980 teacher positions in the system over the past six years in spite of the enrolment decline of 23 000 students.

The Hon. R.J. RITSON: On a point of order, Sir, there is a Standing Order which states that, while members may use copious notes, they may not read a speech. I wonder whether the honourable member could perhaps make eye contact from time to time with the people who are listening to him and occasionally refer to his copious notes in conformity with Standing Orders.

The PRESIDENT: I take it that the honourable member is reading from copious notes and that he is referring to them. I do not see it as a point of order at this stage.

The Hon. G. WEATHERILL: I want to look now at what the curriculum guarantee is all about. The concept of a curriculum guarantee is not particularly new. It has been the subject of discussion with the Institute of Teachers, the Education Department and parent groups for some years. All those discussions came to fruition this year after extensive discussion and negotiation.

The terms of the curriculum guarantee were thrashed out in minute detail. The teachers union and the Education Department were both in agreement on one fundamental principle—that the outcome of the negotiations had to be a better deal for students and improved educational opportunities for them. For example, in the *Advertiser* of 19 July, the Institute of Teachers placed an advertisement about the curriculum guarantee negotiations headed, 'Do you think South Australian Students Deserve the Best?' The advertisement stated:

> Teachers certainly believe that young South Australians deserve nothing but the best when it comes to education. That's why the Teachers' Institute is trying to negotiate the best deal possible for education.

The *Advertiser* editorial comment of Saturday 5 August stated:

> For the truth is that both sides quite sincerely seek a better education for the State's children.

Mr Lucas keeps muttering about a 'hidden agenda' behind the curriculum guarantee. The only hidden agenda is exactly as the *Advertiser* states: a desire on behalf of all parties to improve education for young South Australians.

The teachers union and the teachers themselves were not to be fobbed off with something that would lessen educational opportunties. They negotiated hard to get the best deal possible for students. The final package worked out with the Teachers' Institute was put to all teachers in South Australian schools. They voted to accept it by a massive majority of three to one, in spite of the Opposition's attempts to sabotage it all the way. Mr Lucas even stooped as low as attacking the President of the Teachers' Institute when it looked as if an agreement was about to be reached. I recall the Hon. Mr Lucas's news release of 21 August.

The Hon. R.I. Lucas: No you don't, George.

The Hon. G. WEATHERILL: Yes, I do. I had a look at it. He stated quite categorically that settlement of the guarantee was not yet certain. Members will recall that settlement was reached on 1 September, just ten days later, which shows how reliable Mr Lucas's predictions are. In that news release, Mr Lucas said:

> Many schools are convinced that there are still major problems with the supposed curriculum guarantee.

Such was their doubt that they voted overwhelmingly to accept it just a few days later.

But, the Hon. Mr Lucas did not stop there in being wrong. He tried to suggest that there was some problem between the President of the institute and its membership, and claimed that the leadership of SAIT had been rolled. Things were obviously not going too well at that stage for the Hon. Mr Lucas's liking, so he tried to put the boot in before the teachers had a chance to vote on the package. In spite of that, the teachers accepted the package, and accepted that the package would improve education in South Australia.

The President of the Institute of Teachers, David Tonkin, is quoted in the *Advertiser* of 2 September, the day after teachers voted overwhelmingly to accept the curriculum guarantee package, as saying that the package 'means a quite dramatic improvement in schools in 1990.' He went on to say, 'We have achieved stability and predictability in staffing and curriculum.' Mr Tonkin commented that under the old system there was sometimes some uncertainty over what schools might be able to teach each year. But, with regard to the curriculum guarantee, he went on to point out:

> I think that that will make State schools more stable. We are looking at far better confidence in the State school system as a result.

I might add, as an aside, that it is a confidence that the Hon. Mr Lucas seems to be doing his best to undermine, with his constant sniping from the sidelines.

Let us look at some basics in the curriculum guarantee package. As part of the industrial agreement with the Institute of Teachers, a new formula for staffing schools was developed. It is a formula designed to make sure that each student in the education system is guaranteed access to a comprehensive approved curriculum in line with the Education Department's policy statement 'Our Schools and their Purposes.' That is the bottom line, that every student gets guaranteed access to a comprehensive curriculum. It may be that there have to be minor adjustments in some schools. However, the new formula will provide the vast majority of schools with additional resources. It is a formula worked out after the most extensive negotiations with the teachers union which, as I have shown, was committed to improving educational offerings.

In the eastern area, where the schools that the Hon. Mr Lucas said had done their own staffing calculations are located, a review committee has been set up to review the staffing allocation of small area and country high schools to ensure they will be able to offer at least the same curriculum as in 1989. I have been advised that, where necessary, supplementary staffing will be provided to ensure this. But let us look more closely at what is guaranteed for students.

For a start, for primary and junior primary schools it will mean a full program in the required areas of study is guaranteed. In addition, each school will be able to use specialist teachers in two subject areas, one of which will be another language. For secondary schools and area schools in years 8 to 10, it will mean that all students will be guaranteed a full coverage of the required areas of study. In addition, schools will be able to offer elective studies in each year. For secondary and area schools in years 11 and 12, all students are guaranteed access to a range of subjects which will enable them to fulfil the requirements of the new South Australian Certificate of Education. In all schools it will be possible to offer at least a choice of six subjects out of 12.

To increase further the range of courses which can be made available as a result of the basic formula, there are additional staff allocations, which the Hon. Mr Lucas conveniently ignored. When he went on about open access teachers, he failed to acknowledge that every school with a secondary component will, irrespective of size, get a student counsellor. Part of that person's duties will be to coordinate distance education programs. This shows that the Hon. Mr Lucas's allegation that some very small schools are not being provided with any assistance at all for distance education is sheer nonsense. What the Hon. Mr Lucas is confused about is the additional open access teachers provided to some schools.

All schools with a secondary enrolment of between 50 and 150 students in years 8 to 10, and an enrolment between 50 and 150 in years 11 and 12, will get an open access teacher (in addition to the counsellor) according to a formula worked out with the Teachers Institute as part of the curriculum guarantee package. It is clear therefore that all small schools are being given assistance with resources for distance education. However, the Hon. Mr Lucas has never been one to let facts stand in the way once he has the bit between his teeth; and sure enough he continued his errors in his news release dated 3 October.

In it he once again repeated the false allegation that the Government had refused to give any assistance to schools with fewer than 50 students in years 11 and 12. The fact is that schools with fewer than 50 students in those years will still get a counsellor, part of whose job will be, as I said, to coordinate distance education. The Hon. Mr Lucas attached a list of 33 schools which he claimed would not receive any assistance with distance education. He was quite wrong.

In fact, 15 of those schools will get staff for that purpose. It would be kinder to assume that the Hon. Mr Lucas merely misunderstands the provisions of the curriculum guarantee package. That would be understandable, as it is indeed a complex document. However, I suspect his misunderstanding is wilful in order to throw mud on the Government, with no concern for the students, parents and teachers who are confused and upset by the nitpicking, criticism and distortions. The honourable member does not understand, or does not want to understand, the provisions in the curriculum guarantee package for the delivery mode of the curriculum.

As part of the package, it was agreed that the delivery mode of the existing curriculum will be either face-to-face or in an alternative mode that is acceptable to schools. It is patently obvious, therefore, that there is no attempt to force schools into a curriculum delivery through educational technology, as the Hon. Mr Lucas alleges. The honourable member continues to misrepresent the curriculum guarantee package and distort the provisions for the purposes of political point scoring.

It is a major step forward for South Australian education, and will provide our young people with the most comprehensive education offering in South Australia. It represents a major commitment by the Government to education in South Australia, and it has been acknowledged as such by the Teachers Institute, parents and community groups. Our curriculum guarantee is the envy of all States. I commend it to the Council, and urge members to oppose the motion.

The Hon. M.J. ELLIOTT secured the adjournment of the debate.

CONSTITUTION ACT AMENDMENT BILL (No. 3)

Adjourned debate on second reading.

(Continued from 27 September. Page 913.)

The Hon. T. CROTHERS: I will speak only briefly to oppose the Bill moved by the Hon. Mr Gilfillan which seeks to establish a four year fixed term for the South Australian Parliament and also the cognate Bill which seeks to hold a referendum on the fixed term question at the next State election. When these Bills were originally introduced, the Hon. Mr Gilfillan failed, as far as I am concerned, to produce any compelling argument for their acceptance by this Council. In fact, the honourable member failed totally to address many of the problems associated with grafting

fixed terms onto a Parliament which is based on the Westminster traditions.

Many of the problems with fixed terms for Parliaments were addressed by the Australian Constitutional Commission in its examination of the Australian Constitution. In relation to a fixed term for the Federal Parliament, the commission found in favour of the system that was introduced in Victoria in 1984 and a similar system introduced in South Australia in 1985, that is, a three year qualified fixed term with a four year maximum term. In its final recommendations for reform of our Federal Constitution the Constitutional Commission rejected the idea of a three or four year fixed term on the grounds of inflexibility.

The Hon. L.H. Davis interjecting:

The Hon. T. CROTHERS: No, when I look in your direction I constantly see a big gig.

Members interjecting:

The PRESIDENT: Order! The Hon. Mr Crothers has the floor.

The Hon. T. CROTHERS: The concept of a fixed term is totally alien to the Westminster model of Government on which this Parliament is soundly based. Under this model Parliament is the master of its own destiny. An inflexible four year fixed term grafted onto a Westminster style State Parliament is, in my view, a massive contradiction. What we would end up with is a Westminster system saddled with elements of the US system.

We already have a Federal system of Government with a Constitution which is a hybrid of the Westminster system and the US system and which has proven to be less than ideal. It is neither a true Westminster system, nor a US system but more, as one person has described it, a 'Washminster mutation'.

I am not at all confident that that is the road that this State should be taking. I have identified three problems with a fixed term of Government which are fundamental to our system of Government: first, the inflexibility of a fixed term; secondly, the transfer of powers away from the Parliament to decide its own destiny; and, thirdly, the introduction of an element that is incompatible with the Westminster tradition.

One final element of a four year fixed term that is of particular concern to me is that it creates the situation where we could have 'lame duck' Governments in the Lower House. This could arise where we have a Government which is mortally wounded by incompetence or corruption and totally lacks the confidence of the people, yet it is forced to run its term of four years—

The Hon. I. Gilfillan interjecting:

The Hon. T. CROTHERS: The Hon. Mr Gilfillan interjects, so that proves he is listening to me. It is worth repeating the point: that it is forced to run its term of four years without the people having an opportunity to pass judgment. A case in point is Queensland, where we have a Government that is punch drunk following the exposure of its gross incompetence and corruption. If Queensland were to work under Mr Gilfillan's system the Queensland Government, which was elected on 1 November 1986, would be forced to run another full year, even though it had totally lost the confidence of the people of Queensland. This would only serve to diminish the standing of Parliament in Queensland even more than it already is, making Parliament little more than a mockery.

A similar situation in South Australia at some future stage is possible, and it would do this Parliament no good to have a Government lurching from one crisis to the next, unable to have its legislation passed and unable to govern for the good of the State, yet forced to finish its four year term. That is what the Hon. Mr Gilfillan's Bill means. Such a situation would not be in the best interests of anybody. Mr Gilfillan claimed when introducing these Bills that they would add stability to our system. A fixed four year term does not necessarily provide the stability that the honourable member claims it would. The South Australian experience since 1985 has shown that the three year qualified fixed term with a four year maximum has provided stability in government. The Constitutional Commission saw it that way in its recommendations, and I see no reason to change the system that is currently in place. I therefore oppose the Bill.

The Hon. T.G. ROBERTS secured the adjournment of the debate.

ATMOSPHERE PROTECTION BILL

Adjourned debate on second reading.

(Continued from 23 August. Page 515.)

The Hon. M.B. CAMERON (Leader of the Opposition): It is not my intention to speak at great length on this matter. However, it would be unwise for this Council to dismiss out of hand a Bill such as this because there is little doubt that each and every one of us, either now or in the near future, must consider just what is being done to the atmosphere of this earth by either individuals, companies, industries or other organisations. Of course, the atmosphere is essential to us, and without it we will not have a future, and nor will the people who come after us. The Opposition therefore believes that the basic premise of this Bill should be supported.

However, there are matters of concern, and it would be unwise of us as a State to leap into the detailed parts of this Bill without carefully considering the impact they would have on the State and its future, unless such a Bill is supported in principle or in detail by other parts of this country. For that reason, although we will support the second reading, we ask that any future consideration of the Committee stage be left until discussions can occur, both with individuals and industry within the State and, more importantly, on a Commonwealth level. Eventually a matter such as this should be considered on a world-wide level. One of the great problems with this world is that so much damage is being done to the atmosphere by Third World countries who, by sheer pressure of economics, are forced into practices which are extremely damaging and which are causing huge difficulty.

One only has to read of what is occurring in the Amazon to know that very little consideration is being given to the effects of human actions on the earth merely because people are living in poverty. I stayed for some time in Brazil in my younger days, and it is somewhat bewildering to think that such a large portion of that magnificent country is now being destroyed in the interests of economic return to the people. If one saw the way people were forced to live, one would understand the reasons for it. In this country one has no concept of true poverty until one has seen situations where people live on their wits, from hand to mouth and a lot of them virtually starve to death. People cannot understand why certain actions are taken in relation to their environment and the atmosphere. I believe that is ranging a little wide of the Bill relating to South Australia.

The Opposition will support this Bill at the second reading stage but only on the basis that the details of it will be left for further considerable inquiry and debate. Clearly,

much of this Bill could be effected by regulation. That causes me some concern because in my view far too much legislating is done by regulation these days, and this Bill would almost be done almost totally in that way. Although I understand the reasons and the need for regulation in this type of legislation, I certainly want to see some brakes put on the regulation-making powers. Certain requirements can be put into legislation to ensure that the Parliament has the power properly to consider regulations.

For a long time, I have been disturbed at the way in which regulations can be disallowed by this Parliament, repromulgated the next day and put back in law until the Council sits again. That is not a matter that should please members of Parliament because that means that in many cases the Executive can virtually thumb its nose at the Parliament and continue matters which do not have Parliament's support and over which the Parliament purports to have some control. We should perhaps consider in future some requirements in many of the Bills that are put before us to give Parliament some reasonable and decent control so that we can ensure that the Executive—of whichever persuasion it might be—cannot just thumb its nose at the Parliament. I trust that, despite what the Government has already said, this is the sort of Bill that will in principle be supported unanimously by this Council, with the detail being left until a later time.

The Hon. R.I. LUCAS: I rise to support the second reading of this Bill. As members will know, it relates to reducing the emission of greenhouse gases, and in particular carbon dioxide. It is about the reduction of energy consumption and improving energy efficiency and recycling procedures within the South Australian community.

The Bill proposes action in four general areas: first, to establish energy efficiency standards for machines, appliances or equipment installed or sold in South Australia which use electricity and fossil fuels such as oil, gas or coal; secondly, to require Government agencies to reduce consumption of electricity and fossil fuels, use recycled materials and report annually on their compliance; thirdly, to require all containers other than those covered by the Beverage Container Act to carry deposits and to establish a system for returning, making and disposal of goods; and fourthly, to require all packaging of goods intended for sale in South Australia to comply with certain packaging standards.

As the Hon. Mr Cameron has indicated, the Liberal Party takes the view that this is an important Bill. We wish to see it pass the second reading stage and get into what would hopefully be a productive Committee stage. Obviously, there will be many issues of concern, particularly to industry and perhaps to other organisations and individuals in South Australia. Indeed, the Government, in its contribution to this debate when it indicated that it opposed it, raised one or two matters in relation to attitudes of industry to one provision. I refer, for example, to Part II, which relates to efficiency standards. Government members speaking on behalf of the Bannon Government indicated that for a market the size of South Australia the provision would impose significant costs on interstate manufacturers and importers wishing to sell their goods within South Australia. I imagine that would be only one issue of very many. I know from the brief discussion I had with the Hon. Mr Elliott about this Bill that there will obviously be a range of matters on which industry will want to be involved in discussion before legislation of this type is passed in South Australia.

As I understand the Hon. Mr Elliott, at this stage there has not been that much feedback from industry bodies and organisations in South Australia. There are two possible reasons for that: first, that they are all highly delighted with the Bill, having studied it closely, and have no problems with it and, therefore, have not lobbied Parliament. Secondly, with many pieces of legislation towards the end of the session, many members have not had their attention drawn to it yet or have not got off their butts and had a good hard look at it.

The Hon. I. Gilfillan: They do not care about the environment.

The Hon. R.I. LUCAS: Are you suggesting that industry does not care about the environment?

The Hon. I. Gilfillan: No, honourable members.

The Hon. R.I. LUCAS: I hope that that is not the case. I am disappointed that the Bannon Government opposes the Bill. As I have said, there are two reasons why there has not been much feedback from industry groups in respect of the bill. It may be that they have not had their attention drawn to it or had the opportunity to have a close look at it. I hope that, if we can get the Bill through the second reading stage and into Committee, we can engage in an intensive period of consultation with industry in South Australia. I am sure that the Hon. Mr Elliott, as the author of the Bill, would be involved in that. Certainly Liberal members in this Chamber would wish to work with the Hon. Mr Elliott, the Democrats and industry groups to see whether common ground can be found in this important issue.

If we cannot resolve satisfactorily the important issues and concerns, the legislation may have to wait for another day. If the Bill is defeated at the second reading and prevented from going into Committee, there will be no consultation with industry and other interested groups in South Australia to ascertain what might be achieved in this important area.

For many in the community the environment is the flavour of the year with the television programs that achieved enormous ratings earlier in the year and with Governments of all persuasions trying to jump on the environmental bandwagon. It would be a bad signal, particularly to young people in South Australia with their concerns on the environment, the greenhouse effect and greenhouse gases, if this Parliament in a pre-emptory way knocked off what is a genuine attempt by a member in this Chamber to see what might be achieved in this important area. I indicate my strong support for the second reading of the Bill. I will not be as harsh as the Hon. Mr Gilfillan and say that members who vote against the Bill do not care about the environment. However, I am disappointed with the attitude of the Bannon Government. The Hon. Mr Crothers, speaking on behalf of the Government, said that the Government opposed the Bill.

The Hon. I. Gilfillan: Does he speak for the Government?

The Hon. R.I. LUCAS: In his second reading contribution, written for him by the relevant Government officer, he said that the Government opposed the Bill in its present form. It is not Mr Crothers, but rather the Bannon Government, opposing the Bill in its present form. I am disappointed in that attitude and hope that, if we can get it through the second reading against the vote of the Bannon Government, the Government will enter into the Committee stages in the same fashion as other members in order to ascertain whether we can reach some agreement in relation to these most important matters raised by the Hon. Mike Elliott.

The Hon. T.G. ROBERTS: I move:

That the debate be further adjourned.

The Council divided on the motion:

Ayes (9)—The Hons T. Crothers, M.S. Feleppa, Anne Levy, Carolyn Pickles, R.R. Roberts, T.G. Roberts (teller), C.J. Sumner, G. Weatherill and Barbara Wiese.

Noes (12)—The Hons J.C. Burdett, M.B. Cameron, L.H. Davis, Peter Dunn, M.J. Elliott (teller), I. Gilfillan, K.T. Griffin, J.C. Irwin, Diana Laidlaw, R.I. Lucas, R.J. Ritson and J.F. Stefani.

Majority of 3 for the Noes.

Motion thus negatived.

The Hon. M.J. ELLIOTT: I am pleased that the Liberal Party has taken an open-minded approach which the Government has not been willing to do on this matter. I recognise that the Opposition has not indicated that it will necessarily support the Bill at the third reading but that it will support it to the Committee stage so that a number of areas can be the subject of much more scrutiny. I was very disappointed about the Government's attitude, although I am not surprised because it has done similar things to other private members' legislation. Quite clearly the person who prepared the speech for the Government went on the usual nitpicking exercise and was so far from the truth it was not funny in suggesting how the Bill would or would not work.

I wish to address certain matters raised by the Hon. Trevor Crothers in his second reading contribution. Not surprisingly, his first point was the need for a coordinated national approach. I anticipated that when I introduced the Bill and said so at the beginning of my remarks. It was the exact line taken by the Government on chlorofluorocarbons. It is an argument that is deeply flawed for a number of reasons. We have no reason to believe that we can get a fully coordinated national approach. It is quite likely that a couple of States will drag their feet and could, in fact, drag out necessary actions for quite a number of years. The problem was recognised by Federal Labor members when they suggested a need for constitutional change at least in the area of the environment to give the Federal Government greater power.

Quite simply, a coordinated national approach on this will be at the lowest common denominator. All people, if they are honest with themselves, will admit that that will happen. Whatever the lowest standard demanded by any State, that will be the standard adopted under the so-called coordinated national approach. If one reads the Bill with care, one will find that the actions it demands will not put this State at any disadvantage. In fact, I would argue that in some cases the State could derive a distinct economic advantage by acting unilaterally.

One can be very mindful of what the impact will be in a particular area as one introduces regulations, but perhaps I will address that when I analyse the clauses of the Bill. Mr Crothers said that South Australia has taken the lead without agreement elsewhere in Australia. He cited the Beverage Container Act. Yes, we did go it alone there and we have something which many other States envy and are probably never likely to have. We proved that South Australia can go it alone and need not suffer an economic disadvantage. Since the Hon. Mr Crothers raised the Beverage Container Act, I point out that in more recent times the Government tried to water it down, which indicates the Government's true commitment to environmental issues. I will not go into a long discourse at this stage on the many areas in which it has failed.

We waited for a considerable time for Commonwealth action on chlorofluorocarbons, and those who care to study the Commonwealth Act will find that it was indeed a very disappointing document; much weaker than the Democrats pushed for. Once again, it was the lowest common denominator at work and, whilst most people have been demanding phase-out within two to three years, we are still looking at phase-out over a much longer time scale.

Mr Crothers claimed that under Part II of the Bill (which relates to efficiency standards) the sale of goods are prohibited unless an efficiency standard has been promulgated. Quite clearly, he misread Part II which provides that efficiency standards may be promulgated and that a person cannot sell something unless it complies with an applicable efficiency standard. It should be quite clear that, if no efficiency standard is set, there is no problem in complying with it. It was my very clear intention that the Government would first set about tackling major users of energy, set the efficiency standards and then progressively work through the various forms of devices that use energy. There is no need for all devices to have efficiency standards set immediately and there may be many devices for which energy efficiency standards may never need to be set. Mr Crothers certainly totally misconstrued the way Part II of this Bill works in relation to efficiency standards.

The Hon. Mr Crothers also suggested that the legislation would cause considerable problems for people who are marketing in South Australia. I fail to understand why it would be a problem for those who market in South Australia. They simply will not be able to import into South Australia those devices which do not meet our standards. So there will be no particular problem for importers, and there should be no problems for those who manufacture in South Australia. If there are different standards operating in other States, the manufacturer will remain in that market as an equal competitor, if they have low efficiency devices. So, once again the honourable member's logic was deeply flawed.

The Hon. Mr Crothers then went on to say that defining efficiency standards, while possible, would not be as simple as it would appear. In fact, I would argue that it is not that difficult. The Government has already set about doing efficiency standards for a number of household appliances. All I am suggesting is that that sort of work would continue but, instead of the label on a refrigerator saying that it is a one, two or three star refrigerator, it would state that any refrigerator with one or two stars will not be sold in South Australia. The efficiency standard will be set in the same way but in South Australia we will no longer tolerate the use of low efficiency devices. It seems to be something of a furphy to suggest that defining standards is a problem when we are already doing it. As for packaging standards, by this stage the Hon. Mr Crothers largely started to duck the issue and said the same sort of criticism of Part II applies to Part III. However, I have quite clearly indicated that all the arguments he put up in respect of efficiency standards were simply not correct.

The Hon. T. Crothers interjecting:

The Hon. M.J. ELLIOTT: They were simply not correct. The honourable member misread the Bill completely. He put a fallacious legal interpretation on the Bill. He said that we could not define efficiency standards—yet we are already doing it.

The Hon. T. Crothers: I didn't say that.

The Hon. M.J. ELLIOTT: You said that defining efficiency standards, while possible, would not be simple. We are already doing it, so the honourable member does not have a substantial argument against my suggestion. As for the honourable member's arguments that it will be difficult to sell or manufacture in South Australia, that quite clearly is false because a person who manufactures in South Australia can continue to export and a person who imports will

not be at any disadvantage compared with a local producer because they can both only sell things of the same standard—so there is no problem there.

The Hon. Mr Crothers tried to construct his argument against packaging standards by saying that the same arguments in respect of efficiency standards apply. I think at that stage the pen-pusher had tired, and thought that he had nitpicked enough. He knew the Government would oppose the Bill and supposed the Liberals would anyway and that would be the end of it. It now appears that such a supposition was incorrect.

I expect that some concerns will be raised about parts of the Bill—in fact quite vigorous concerns. The packaging industry in particular will be very active in respect of its concern about some provisions of the Bill, just as the manufacturers of chlorofluorocarbons were very active when I first introduced chlorofluorocarbons legislation some 2½ years ago.

Unfortunately, if we are forced to make decisions to protect our earth, there are times when they may have to reconsider their position. I do not see that any particular manufacturer will be put at a disadvantage, but I do think it is about time that they took a more responsible attitude rather than adopting a gut reaction that they are under attack and will defend themselves without examining all the issues.

No doubt the proposal for deposits and returns will create a great deal of concern in the packaging industry. It already anticipates an Australia-wide push in this area, as is quite clear when one reads the industry magazines. It is doing everything it can to undermine this proposal, to the extent that full page advertisements have been run by companies such as ACI where, something like the Bannon Government, it has discovered the word 'sustainable'. It suggested that the use of certain of its products will allow a sustainable economy. I do not think that it understands the meaning of the word, but it knows it is trendy to use it.

I recognise that Parts III and IV will create problems and I know that there will be very vigorous debate in that area. I hope that commonsense will eventually prevail, but I do not expect much opposition to Part V relating to actions to be carried out by Government agencies. What is proposed in this Part involves a lot of commonsense. The suggestion that, as far as practicable, Government agencies should reduce their consumption of energy seems to make good economic sense as well as environmental sense.

It is also reasonable to request that Government agencies should use recyclable materials where they are available and as far as practicable. That proposal should cause no great concern. The request that Government agencies prepare annual reports is also reasonable. There really must be some way we can bring to account bodies such as the Electricity Trust of South Australia and Sagasco, both of which have behaved most irresponsibly and have not reacted properly to the challenge of the greenhouse effect. ETSA and Sagasco see themselves as energy suppliers but, more than that, they look to increasing sales and they see themselves as being competitors with each other, and that is an extremely unhealthy situation.

We must really adopt an attitude where energy is supplied for industry and for individual use, but the idea of competition between those groups and their pushing for further sales is irresponsible. I hope that when we get to the Committee stage members will agree that that is an irresponsible attitude and that it would be good practice if those bodies were required to report to us on what they are doing to reduce energy consumption.

It is most disturbing to witness the Electricity Trust's actively seeking the building of additional power stations—an action which is totally unnecessary. If we cared to be involved with energy conservation, we may not need another power station during this century; in fact, we may not need it until well into the next century. A major change will probably be forced on us when we have exhausted our natural gas supplies and have to change to another fuel source. Hopefully, by that stage, we will move to renewable energies.

Most of these matters can be debated during the Committee stage which, being realistic, I do not expect to occur before the State election. I am sure that the Opposition was cognisant of that fact at the time it decided to support the Bill, but I assure members of the Council that, whether or not an election is held, this debate will be revived in this place early next year and I will pursue it until action is finally taken by this Parliament. I urge support for the second reading of this Bill.

Bill read a second time.

In Committee.

Clause 1 passed.

Progress reported; Committee to sit again.

CRIMES (CONFISCATION OF PROFITS) ACT AMENDMENT BILL

The Hon. Anne Levy, for the **Hon. C.J. SUMNER (Attorney-General)**, obtained leave and introduced a Bill for an Act to amend the Crimes (Confiscation of Profits) Act 1986. Read a first time.

The Hon. ANNE LEVY: I move:

That this Bill be now read a second time.

It is designed to enhance the effective operation of the confiscation of profits of crime legislation currently operating in this State. The Crimes (Confiscation of Profits) Act came into effect in March 1987. Since that time the Act has shown the potential to be an effective means of depriving criminals of the profits of crime. Approximately $115 000 has been confiscated in a total of eight cases, and a further seven restraining orders over real property are in place.

In order to ensure that this potential is fully realised it is necessary to provide those who are responsible for the Act's day-to-day operation with the means to carry out their responsibilities as effectively as possible. This Bill incorporates some features of equivalent interstate legislation not currently found in the Crimes (Confiscation of Profits) Act, as well as addressing some deficiencies pointed out by those who administer the Act. The major provisions of the Bill are as follows:

1. Definition of property and effect of forfeiture on third parties:

The definition of 'property' is extended to include any interest in any real or personal property. This will enable a specific interest held by a person liable to forfeit property (for example, a leasehold interest) to be forfeited, and brings the South Australian definition into line with that incorporated in interstate Acts.

Where the interest of a person liable to forfeit property cannot be severed or realised separately from other interests (e.g. a joint tenancy) in the same property, provision is made for the whole property to be forfeited and the third party interests to be paid out. At present it is not possible to forfeit property in which an innocent third party has any interest. This has meant that in a number of instances the Crown has not tried to obtain forfeiture orders because the existence of the other interest made forfeiture impossible.

2. Proceeds of crime:

The definition of 'proceeds' of an offence has been expanded to include property derived directly or indirectly from the commission of the offence which is converted to another form in one or more transactions. In this way the intention of the Act cannot be subverted by a person who undertakes a series of transactions to hide the proceeds of crime. Property converted in this way will remain liable to forfeiture.

In addition, a person who receives property or proceeds of crime knowing of its origin or in circumstances that should raise a reasonable suspicion as to its origin will also be liable to forfeit that property.

3. Notoriety for profit provisions:

A new provision is included in the Bill to ensure that a person who commits or is a party to the commission of an offence and who obtains any benefit through the publication or prospective publication of material concerning his or her exploits or opinions or the circumstances of the offence or in any other way exploits the notoriety of the offence will be liable to forfeit that benefit or its equivalent value. These provisions should serve as useful deterrent to those persons who seek to sensationalise criminal activity.

4. Forfeiture in relation to serious drug offences:

The Bill provides that a person who commits or is a party to a serious drug offence is liable to forfeit all property except property that the court is satisfied (on evidence from that person) was not the proceeds of offences against the law of this State or any other law. The effect of this provision is that the onus will be on the person to prove that items of property were legitimately obtained, not on the Crown to prove that property was the proceeds of crime. The Government considers that such a provision will hit hard at serious drug traffickers and will provide a significant weapon for attacking the profit motive of such crime.

5. Administrator of forfeited and restrained property:

The Bill makes provision for the appointment of a person to administer forfeited and restrained property. The Deputy Crown Prosecutor advised that she considered it appropriate for an officer to be appointed both to manage property which has been restrained and to supervise the sale and distribution of proceeds of forfeited estates. It is her view that such an officer should be located in the Attorney-General's Department and should work closely with prosecutors and solicitors who handle proceedings under the Act. The Administrator's salary will be paid from the proceeds of confiscated assets and it is hoped that such an appointment will facilitate the further and better utilisation of the Act in the future.

6. Information gathering powers:

The present Act contains no information gathering powers other than provisions relating to search warrants. The Acts in operation elsewhere contain extensive information gathering powers. The Bill includes wide ranging and effective powers to allow law enforcement officers and investigators to gain access to documents relevant to following the money trail and the transferring of tainted property.

The Supreme Court will be able to order the production of documents relevant to identifying, tracing, locating or qualifying forfeitable property; order the seizure of such documents; or order that a person appear to answer questions relevant to identifying, tracing or locating such property.

A further significant power is provided by the introduction of monitoring orders which will be issued by the Supreme Court and will require a financial institution to report on transactions affecting an account or accounts. These orders should significantly improve the chances of tracing the proceeds of crime.

7. Registration of Interstate Orders

Full recognition is given to forfeiture and restraining orders made by the courts in other States under corresponding laws.

In summary, this Bill should significantly enhance the State's ability to locate and confiscate the proceeds of crime. I seek leave to have the explanation of the clauses of the Bill inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clause 1 is formal.

Clause 2 provides for commencement on a day to be fixed by proclamation.

Clause 3 amends section 3 of the principal Act which is an interpretation section. The amendment inserts definitions of 'Administrator', 'drug', 'financial institution', 'forfeitable property', 'gift', 'party', 'serious drug offence' and 'tainted property', amends the definitions of 'appropriate court' and 'prescribed offence' and strikes out the definitions of 'proceeds' and 'property', substituting new definitions of these words.

The definition of 'proceeds' incorporates money which has been laundered. Subsection (3a) is inserted after subsection (3). This clarifies when a person is involved in the commission of an offence for the purposes of this Act. Subsection (4) is struck out and a new subsection (4) is substituted. This deals with tainted property. A new subsection (4a) is inserted imediately after subsection (4). This deals with determining who is in effective control of property for the purposes of this Act.

Clause 4 repeals section 4 of the principal Act and substitutes a new provision concerning liability to forfeiture. Subsection (1) deals with the forfeiture of tainted property or of an accretion of property in anticipation or in consequence of the commission of an offence. There is provision for the prevention of double forfeiture. Subsection (2) deals with forfeiture of any benefit by anyone profiting from publication, in any form, of events leading to notoriety if the notoriety is a result of being the principal, or party to, the commission of an offence. Subsection (3) states that all property of a person who has committed or is party to the commission of a serious drug offence is liable to forfeiture unless that person can satisfy the court that the property was not derived from the proceeds of offences against any law. Subsection (4) deals with forfeiture by any person of a gift of tainted property. Subsection (5) allows property that is in the effective control of a person involved in the commission of a presribed offence to be treated as the property of that person for the purposes of forfeiture proceedings.

Clause 5 amends section 5 of the principal Act by striking out subsections (1) and (2) and substituting subsections (1), (2), (2a) and (2b) dealing with the making of forfeiture orders by the court. Subsection (2a) enables the court to make a forfeiture order in respect of property in which persons, other than the person liable, may have an interest. Subsections (6) and (7) have been inserted. These vest forfeited property in an Administrator.

Clause 6 amends section (6) of the principal Act. 'Sequestration orders' are now 'restraining orders' and subsection (1) grants the court power to make restraining orders. Subsection (3) is struck out and a new subsection (3) is substituted, setting out what may be done by a restraining order. There is provision to confer on the Administrator certain power, to control and manage the property, for management or control of the property, for payment of a specified kind

to be made out of the property, to allow the owner to use the property as security for raising money, in a manner allowed by the court, and to make any other necessary provision in respect of the property.

Clause 7 amends section 7 of the principal Act by striking out subsection (1) and substituting a new subsection (1). This allows a member of the police force to apply to a magistrate for a search warrant where there are reasonable grounds to suspect that a search would reveal forfeitable property or documents relevant to tracing or identifying forfeitable property.

Clause 8 amends section 8 of the principal Act by striking out subsections (4) and (5) and substituting new subsections (4) and (5). These deal with the powers conferred by a search warrant.

Clause 9 inserts section 9a into the principal Act following section 9. This deals with orders for obtaining information which may be made by the Attorney-General, the Administrator or a member of the police force, on application to a Judge of the Supreme Court sitting in Chambers. The court may make a monitoring order requiring a financial insitution to report. certain transactions, an order for a person to appear before the court to be examined, or an order to produce documents to the court.

Clause 10 amends section 10 of the principal Act by striking out subsection (1) and substituting a new subsection (1) and inserting subsections (3) and (4) after subsection (2). Subsection (1) states that certain money obtained under this Act is to be paid into the Criminal Injuries Compensation Fund. Subsections (3) and (4) provide that the costs of administering this Act, among other specified costs, may be paid from that fund.

Clause 11 inserts section 10a after section 10 of the principal Act. This deals with registration of interstate orders on application by the Administrator to the Supreme Court. The court is then granted certain discretions to modify or adapt the order to enable it to operate effectively in this State.

The Hon. K.T. GRIFFIN secured the adjournment of the debate.

RETIREMENT VILLAGES ACT AMENDMENT BILL

The Hon. Anne Levy, for the **Hon. C.J. SUMNER (Attorney-General)**, obtained leave and introduced a Bill for an Act to amend the Retirement Villages Act 1987. Read a first time.

The Hon. ANNE LEVY: I move:

That this Bill be now read a second time.

The purpose of this Bill is to make a number of amendments to the Retirement Villages Act 1987. As a result of consumer concern being expressed in respect of some aspects of the retirement village industry in August 1988, the Justice and Consumer Affairs Committee resolved on 26 September 1988 to establish a task force to consider the introduction of a code of practice, statutory implied terms for residence contracts and the inclusion of a statutory warning in residence contracts. The task force was to report back to the Justice and Consumer Affairs Committee within six months of establishment.

To ensure a proper balance between all parties involved in the retirement village industry, the task force was chaired by the Commissioner for the Ageing, and comprised three other Government officials and four non-government people. The other Government officials comprised the Commissioner for Public and Consumer Affairs, a representative of the Commissioner for Corporate Affairs and a representative of the Crown Law Department. The South Australian Council for the Ageing nominated a resident from a 'church' administered village and another resident from a commercially administered village. The retirement village operators were represented by a representative from the Voluntary Care Association and a representative from the Co-operative Retirement Services Pty Ltd. The composition of the Task Force was announced on 28 November 1988.

The task force considered the draft codes of practice developed by Western Australia and New South Wales. These draft codes of practice covered disclosure information, contract documents, village management and dispute resolution. As the latter two items are matters presently covered by the Retirement Villages Act 1987, the task force decided to focus on adequate disclosure of information to prospective residents.

The task force sought to develop a draft code of practice. based on the Western Australian and New South Wales drafts, requiring disclosure of specified information in a formal disclosure document. However, the draft codes of practice developed by Western Australia and New South Wales, in essence, contained little more than a number of philosophical statements which were virtually unenforceable. When the task force examined both the draft code of practice and the disclosure document together, the task force decided to dispense with the draft code of practice as it was virtually unenforceable.

Consequently, the task force decided to prepare only one document, a disclosure statement, to be completed by all retirement village administrators and given to all prospective residents prior to the execution of a residence contract. It was decided that the form of the document would be set out in the retirement villages regulations as form 6. The task force considered that such a form, if properly drafted, would obviate the need for a code of practice.

Form 6 is a disclosure statement only and essentially warns the prospective resident, prior to signing a contract, about various provisions in the contract such as:

(a) the services they will receive for the money they pay to the administering authority;

(b) the circumstances in which they will receive a refund and the amount of the refund; and

(c) the nature of their tenure in the retirement village.

In order to give effect to the form 6, the task force also considered that the Retirement Villages Act 1987 would need to be amended, *inter alia*, to:

(a) deem the information provided by the administering authority in the completed form 6 to be part of the contract and, further, in the event of any inconsistencies between the contract and the form 6, the information provided in the form 6 is to prevail and override the inconsistent provisions of the contract; and

(b) prohibit the administering authority and its agents from providing any promotional or sales material, whether in written or oral form, to a prospective resident that is inconsistent with the information contained in the completed form 6.

The task force also agreed that section 3 of the Retirement Villages Act 1987, the definition of 'the Commission', should be deleted as the administration of the Retirement Villages Act 1987 is to be taken on by the Department for Public and Consumer Affairs.

On 28 March 1989 the Justice and Consumer Affairs Committee approved the form 6. The form 6 was released for public comment until 30 June 1989, with all public comments to be directed to the Commissioner for the Age-

ing. As a result of the public comments received by the Commissioner for the Ageing, a few minor amendments were made to the form 6.

On 28 August 1989, the Justice and Consumer Affairs Committee considered the redrafted form 6 and recommended that the form 6 and the necessary legislative amendments be urgently implemented.

The Justice and Consumer Affairs Committee also approved the issue of extending the cooling-off period from 10 business days to 15 business days recommended by the Commissioner for the Ageing, in response to consumer submissions on this point. The extension of the cooling-off period is a fundamental change to the Retirement Villages Act 1989. It has not been exposed for public comment. The form 6 released for public comment referred to the ten business days cooling-off period presently prescribed by section 6 (4) of the Retirement Villages Act 1987.

It will also be necessary to amend section 9 of the Retirement Villages Act 1987 in order to ensure that the charge in favour of residents ranks before any first registered mortgages. As there is legal opinion to the effect that the present provisions of section 9 (6) do not enable the Supreme Court to treat the charge over and above any first registered mortgages, it is recommended that section 9 be amended specifically to state that the charge could be treated as if it was a first registered mortgage. This amendment will need to be retrospective to 30 June 1987.

The Retirement Villages Act Amendment Bill 1989 will also amend section 6 (1) of the Retirement Villages Act 1987 to make it an offence for a contract not to be in writing. This will compel all residence contracts to be in writing. It is proposed that the penalty be a division 3 fine. This amendment is considered necessary as some administering authorities are not entering into written contracts with their residents. I seek leave to have the explanation of the detailed provisions of the Bill inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clause 1 is formal.

Clause 2 provides that the measure will come into operation on a day to be fixed by proclamation, other than the amendment to section 9 of the principal Act (clause 7) which is to be taken to have come into operation on 30 June 1987.

Clause 3 inserts into the principal Act a definition of the Commissioner for Consumer Affairs.

Clause 4 enacts a new section 5. Section 5 presently provides that the Corporate Affairs Commission is responsible for the administration of the Act. It is proposed to transfer this responsibility to the Commissioner for Consumer Affairs.

Clause 5 proposes various amendments to section 6 of the principal Act. Subsections (2) and (3) are to be revised and amalgamated. In particular, an administering authority will be required to give a prospective resident a statement in the prescribed form setting out information relating to the proposed residence contract and the rights that the person would have as a resident of the particular retirement village. A residence contract will, on the signing of the contract, be taken to include a warranty on the part of the administering authority of the correctness of information contained in the statement, and the warranty will prevail over any inconsistent contractual term. It will be an offence for the administering authority (or an employee or agent of the administering authority) to make a representation to a resident that is inconsistent with information contained in the statement, or to include in the statement information that is inconsistent with representations made by the administering authority (or an employee or agent of the administering authority). Furthermore, it is proposed to change the 'cooling-off' period under the legislation from 10 days to 15 days. Finally, new subsection (6) will provide that any breach of section by the administering authority will be an offence.

Clause 6 is consequential on the proposal to transfer the responsibility for the administration of the Act to the Commissioner for Consumer Affairs.

Clause 7 amends section 9 to clarify that a charge under section 9 will rank in priority before any other mortgage, charge or encumbrance over the relevant land.

Clauses 8 and 9 are consequential on the proposal to transfer the responsibility for the administration of the Act to the Commissioner for Consumer Affairs.

Clause 10 includes an amendment to section 22 of the principal Act to facilitate the introduction of evidence to prove that a person who has commenced proceedings for an offence against the Act has been duly authorised to do so by the Commissioner.

Clause 11 includes an amendment to section 23 of the principal Act so that the regulations will be able to prescribe the kind and size of print to be used in a residence contract or other document used under the Act.

Clause 12 and the schedule provide for a revision of the penalties that apply under the principal Act.

The Hon. K.T. GRIFFIN secured the adjournment of the debate.

WHEAT MARKETING BILL

Adjourned debate on second reading.

(Continued from 24 October. Page 1355.)

The Hon. M.J. ELLIOTT: This will be a brief contribution.

The Hon. K.T. GRIFFIN: Mr President, I draw your attention to the state of the Council.

A quorum having been formed:

The Hon. M.J. ELLIOTT: This Bill has come about in response to a change in Federal legislation, and I wish to put on the record that the Australian Democrats were the only Party at the Federal level to oppose the change in the functioning of the Wheat Board. The Democrats, both in this place and in Federal Parliament, have consistently supported regulated marketing of agricultural produce, because we believe that in the long run it benefits not only the growers but the whole community. I will not lengthen the debate at this stage, as it has already been debated in Federal Parliament and this is simply complementary legislation.

Certainly, members of the State Government did not oppose the Federal moves. They sat on their hands. They have consistently supported the removal of marketing bodies. They did so with the Potato Board and attempted to do so with the Egg Board and, while the Egg Board did not disappear, its functions were somewhat dismantled. We are now seeing that sort of partial dismantling, where the Wheat Board's involvement in Australia has been changed significantly, and I have no doubt that in the longer term the Government will pursue the total destruction of the Wheat Board so that it does not have its current monopoly of overseas sales. That will do serious harm not only to individual growers but also to overall returns to the Australian

economy. We will end up seeing Australian wheat producers competing with each other in the same way that we currently see Australian coal miners—

The PRESIDENT: There is too much audible conversation in the Chamber. The Hon. Mr Elliott has the floor.

The Hon. M.J. ELLIOTT: In the long term we will see our wheat marketers competing overseas in a similar fashion to the way our coal miners are, to the detriment of all. Whilst the move has not gone as far as this yet, there is no doubt that it is the intention of the Federal Government and it is a move that John Elliott, as President of the Liberal Party, would welcome, as his own company has been busting itself to get a big slice of the action. I have no doubt that his manipulations are behind—

Members interjecting:

The Hon. M.J. ELLIOTT: There is no doubt at all that the Liberal Party has been manipulated in part by thoughts of that sort. It is very surprising to see both the Liberal Party and the National Party claiming to have a rural constituency, yet undermining in the way they have done what the rural constituency wants. I am surprised that members of those Parties in the State Parliament have been so lame-duck about it, except that I realise they do not want to criticise their Federal colleagues. They let their Party loyalty get in the way of what is the correct thing to do.

There is no great point in taking this Bill to the barricades because the job has already been done at the Federal level. The Wheat Board has lost most of what it had, in terms of marketing in Australia. All this Bill is doing is tackling the question of intrastate trade, which, if this Bill is not passed, will not be possible for the Wheat Board, which will continue, at least as a marketer, within Australia, although it will no longer be the sole marketer. It is most unfortunate that this rhetoric of deregulation has such a stranglehold. It is rhetoric. The word 'deregulation' is brought up and immediately assumed to be good. The Liberal Party set itself this trap a long time ago when the New Right got control. The New Right, a small group of self-interested people who can see enormous gain to themselves by getting rid of the rules, has promoted this idea of deregulation.

Whilst they have been able to point to ludicrous regulations to show that they ought to go, to prove that some laws and regulations are not necessary does not immediately prove that all laws and regulations are not necessary. That is the way the debate has deteriorated, and now we have this ridiculous push to deregulate for its own sake, regardless of the consequences. That is what has put us in this position. The Democrats strongly oppose the changes to the role of the Wheat Marketing Board, Federally. It is the only Party to do so, but taking a great stand at this stage in the State Parliament is a waste of time, because the Bill is simply complementary, and the damage has already been done at the Federal level.

Bill read a second time.

In Committee.

Clauses 1 to 9 passed.

Clause 10—'Wheat Research deductions.'

The Hon. PETER DUNN: In my second reading speech I did not mention that the levies, which are now automatically taken out of the pool money that growers receive, will be more difficult to collect at this stage. Clause 10 (1) provides:

> Subject to this section, a purchaser of wheat must, with the consent of the seller, deduct from the amount payable under the contract of sale, and pay to the Minister an amount equal to the prescribed percentage of the value of the wheat.

I question how that can be policed. It sounds good, but I know that the Wool Board does it in a slightly different fashion. However, when it is a farmer to farmer sale or a farmer to retailer sale, I question the ability to police this. I am not suggesting that policing conditions be increased, but this demonstrates a lack of knowledge, when the Bill was drawn up, as to the practicalities of what happens.

That will have an effect on research funds in this State. It may decrease them a little, but probably not as much as Queensland and New South Wales where more of the wheat will be traded internally. The majority of South Australia's wheat is sold on the export market, and therefore it will be deducted automatically from those pools. Under the conditions of this Bill, when a private sale occurs I believe it will be difficult to recover the funds. It will be up to the honesty of the people who trade in the commodity to pay the Minister the due amount.

I suggest that there be quite a lot of publicity about the research funds in rural papers so that purchasers and sellers know what their obligations are in respect of research, better breeding and the work that must be done to keep South Australia's wheat industry at the forefront. It is under great difficulty at the moment trying to be economically viable. We should keep new high yielding, high protein varieties of wheat to the forefront. South Australia has some of the best wheat breeders in the Commonwealth, which is proved by the fact that so much of Australia's wheat is sown with South Australian-bred varieties. We need to maintain that position, and to do that we need research funds. To get those funds we need private sales as well as money from the pool system from overseas sales.

Clause passed.

Clause 11 and title passed.

Bill read a third time and passed.

WATER RESOURCES BILL

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

The Hon. BARBARA WIESE (Minister of Tourism): I move:

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

The proper management of our water resources is as essential to the State as the resource is to survival. It is widely recognised that such management will face many and diverse challenges in the 1990s and beyond. Indeed, with a resource which is so vital to the State's welfare it is essential to cast one's mind forward for several decades in considering arrangements for proper water resource management. The integration of the management of land, water and the environment must progress to more practical implementation. Careful consideration must be given to the most appropriate supplies of water for domestic, irrigation, industrial and commercial purposes. The protection of water quality, particularly as regards diffuse source pollution, but also with point source discharges, is a problem both of detection and proof. The need to protect our wetlands and the ecosystems which depend upon them is not only evident but is also demanded by a more informed community.

These factors combined with the fiscal pressures to achieve more with less dictate the need for a comprehsnsive review of all water related legislation to provide a legislative framework capable of dealing with today's problems and yet have

the flexibility to cope with the needs of the future. This Bill is the first step in the review process. It is the management component forming the umbrella for legislation governing water, sewerage and irrigation activities which are more business orientated and are to follow later. It builds on the significant legislative reform which took place in 1976. The Water Resources Act was then the most advanced of its kind and many of its provisions have been adopted by other Governments.

The administration of this Act over the past 13 years has identified a number of areas where improvements can be made. While flexibility, clarity and proactivity are all elements of these changes, the fundamental objective is to make it easier for the genuine, conscientious and fair water user and as tough as possible for those who through indifference, negligence or self-interest are putting our water resources at risk. The review of this Act has involved public consultation. A green paper was released last October and 46 submissions were received from a broad cross-section of the community. Reaction to the proposals was generally favourable. This Bill takes account of all these submissions.

Many of the concepts of the existing Water Resources Act have been retained in this Bill. I now proceed to explain those areas where the reasons for change are not self-evident. In keeping with recent trends in legislation, the objects of the Bill are stated to provide focus and direction in its administration. The key elements include the sustainable use of water, its protection from pollution, its equitable distribution as well as the protection of wetlands and ecosystems.

The functions of the Minister are also clearly identified. I draw attention particularly to the responsibility to endeavour to integrate the policies relating to the management of land, water and the environment. Members will be aware that there has been much talk about integrated catchment management over the last few years. This is the first time in this State that this concept has received legislative expression by incorporating it as part of the Minister's functions.

The need for increased interaction with the community has two facets. The Minister is required to undertake public awareness programs as well as to involve the community in the preparation of regional management plans. Another important aspect of the Minister's functions is to adopt policies which encourage the attainment of the objects of the legislation. This will ensure that there is not the need for constant recourse to the punitive measures provided.

The establishment of the advisory network has been one of the most innovative aspects of the current act. At present, in addition to the Water Resources Council there are nine Regional Advisory Committees widely dispersed throughout the State as well as the Well Drillers Examination Committee. While there may have been some criticism from time to time about the composition of some committees or their method of operation, it is generally accepted that the network has been useful in ensuring that the local and regional concerns have been properly addressed.

In considering the future of the council and the role of committees, it is important to recognise that—

(a) over the past 13 years, most of the policies required to assist the management of water usage for irrigated agriculture have been formulated;

(b) there is acceptence that local people with practical experience can make a more significant contribution in water resource management. There is merit in introducing some level of self-management and hence more responsibility to committees;

(c) greater efficiencies will be achieved if recommendations or decisions made by committees within approved policies did not have to be submitted to council;

(d) the broad-based expertise of council should be available to assist in the development of policies in all aspects of water management rather than limited to issues arising under the Water Resources Act only.

The responsibilities of council will evolve over the next few years. The type of policies in which it could become involved could include matters such as domestic water usage, pricing policies, standards for water services, strategies for water conservation and wastewater reduction.

A degree of flexibility is required in the composition of council. This is achieved in the Bill by, first, diversifying membership and by providing scope to appoint up to four members with unspecified qualification. The council itself will have the opportunity to periodically assess the type of skills required for it to discharge its responsibilities. This will assist the Minister in deciding whether to recommend the appointment of additional members and if so will identify the attributes they should have. As a general rule, selection will be either by inviting appropriate organisations to submit a panel of names or by inviting applications publicly.

Two of the most important changes relating to committees are—

(a) a stipulation that they should, as part of their function, have a closer liaison with the community;

(b) the capacity to delegate to them some executive functions.

It is important to recognise that such delegation of powers will occur after full consultation with the committee concerned; executive powers will not be forced on unwilling committees.

Quite a lot has happened in the regulation of the quantity of water taken particularly for irrigation purposes. Currently there are three watercourses and twelve regions covering the most critical underground water basins which have been proclaimed for water quantity control. This aspect of the legislation has worked quite well. At the administrative level, the Bill removes the artificial separation of provisions between surface and underground water in the water quantity section in the current act. The new provisions recognise that even in proclaimed regions, there are some activities such as domestic, holiday homes or stock watering where the use of water is small and where it is unreasonable to require that a licence be obtained. The Minister is empowered to exempt water taken for certain purposes by gazettal.

The Bill also provides some power even in unproclaimed areas for the Minister to act in cases where there are blatant abuses in the taking of water by any individual. This provides much quicker remedy for those affected and obviates the delays and costs of having recourse to the common law. A person aggrieved by an action of the Minister has a right of appeal to the tribunal. Members will note that the current flood management measures have not been retained, because in their current form they are of little effect. In addition, flood forecasting and warning in some areas is to be undertaken by the Bureau of Meteorology. While acknowledging the important role of local government authorities in planning land use which takes into acount flood risk, nevertheless regulation making powers have been retained in case legal status must be given to some flood maps, or for other contingencies.

Finally, members will note that the range of matters which can be appealed against have been expanded. Min-

isterial decisions which impact on individuals are all now open to appeal. This is considered necessary to balance the greater powers sought. This Bill, in providing a wider and more flexible range of powers and in clearly enunciating its objectives as well as the Minister's powers, provides a legislative framework which will enable sound water resource management to continue in the future, building on the excellent foundation established with the Water Resources Act 1976.

The provisions relating to water quality have been significantly modified. Underpinning this reform are some fundamental concepts—

(a) it is unrealistic to expect that the same level of stringent restrictions should apply throughout the State; although the minimum requirement should ensure that material should not be released into our waters if this would endanger plant, animal or fish life or the environment;

(b) there will inevitably be some sensitive locations such as the public water supply catchment area of the Mount Lofty ranges where more stringent controls will be essential. This might include controls on the type of material which can be released and could extend to acts or activities on land (similar to those applying currently under the waterworks regulations);

(c) it is important that any system of management should have the flexibility to exempt certain types of wastes where beneficial uses of water resources are not jeopardised and to grant licences for the discharge of other pollutants subject to appropriate conditions;

(d) more proactivity is required. Taking action after pollution has occurred is not the answer. It is important that action commence as soon as the potential for problem has been identified;

(e) the level of maximum penalties must be commensurate with the worst offence which can be committed. What penalty for instance would be appropriate if someone released material which rendered a domestic water supply source unusable? Courts can be relied upon to impose fines which are not excessive for the offence committed. Where blatant pollution occurs, persons who offend should be required to pay for any damage done.

The Bill incorporates these concepts.

Clauses 1 and 2 are formal.

Clause 3 repeals the Water Resources Act 1976.

Clause 4 defines terms used in the Bill.

Clause 5 provides that the Bill will bind the Crown.

Clause 6 makes the Bill subject to the Acts and agreements set out in schedule 1.

Clause 7 sets out the objects of the Bill.

Clause 8 requires that the Act be administered in accordance with its objects.

Clause 9 enumerates the functions of the Minister.

Clause 10 sets out the Minister's powers.

Clause 11 is a power of delegation.

Clause 12 provides for the establishment of the South Australian Water Resources Council.

Clauses 13 to 16 are machinery provisions.

Clause 17 sets out the function of the council.

Clause 18 excludes a member of the council with a personal or pecuniary interest from participating in the council's deliberations.

Clause 19 provides for the establishment of water resources committees. Subclauses (1) to (3) deal with committees established in relation to a watercourse or lake or proclaimed part of the State. Subclauses (4) and (5) deal with committees established for any other purpose and subclauses (6) and (7) provide for both categories of committees. Subclause (9) provides for the establishment of the Water Well Drilling Committee.

Clause 20 provides for payment of allowances and expenses.

Clause 21 continues the Water Resources Appeal Tribunal in existence and sets out its composition.

Clause 22 makes provisions in relation to permanent members of the tribunal.

Clause 23 provides for payment of allowances and expenses.

Clause 24 provides for the determination of questions by the tribunal.

Clause 25 provides for a Registrar.

Clause 26 excludes a member of the tribunal from participation in the hearing of a matter in which the member has a personal or pecuniary interest. The deputy of a permanent member can act if his or her member is disqualified under this clause. The other members are not a problem because they are selected from a pool of judges or magistrates or from the panel appointed under clause 21 (4).

Clause 27 sets out the powers of the tribunal.

Clause 28 provides for the appointment of authorised officers.

Clause 29 sets out their powers.

Clause 30 makes it an offence to hinder or obstruct an authorised officer.

Clause 31 sets out the Minister's right to take water and also preserves riparian rights subject to the overriding provisions of the Bill.

Clause 32 provides for the proclamation of watercourses, lakes and wells.

Clause 33 restricts the right to take water from proclaimed watercourses, lakes or wells.

Clause 34 provides for the granting of licences to take water.

Clause 35 provides for renewal of licences.

Clause 36 provides for the variation and surrender of licences.

Clause 37 makes it an offence to contravene or fail to comply with a condition of a licence and empowers the Minister to vary, suspend or cancel the licence.

Clause 38 enables the Minister to authorise the taking of water for particular purposes specified by the Minister.

Clause 39 enables the Minister to act if water is being used at an unsustainable rate (39 (1)) or if one person is taking more than his or her fair share (39 (4)).

Clause 40 is an interpretive provision.

Clause 41 deals with the concept of degradation of water. Subclauses (1) and (2) set out different meanings, subclause (1) applying throughout the State and subclause (2) only applying in more sensitive areas proclaimed as water protection areas. To prove degradation of water outside these restricted areas the prosecution must prove that another user or an animal, plant or organism was detrimentally affected. In the more sensitive areas it is only necessary to prove that the quality of the water was detrimentally affected during its dispersion. This will usually occur in the initial stages of dispersion and may only last for a few seconds. It is not necessary to prove that any person was prevented from using the water during this initial stage or that any person or animal, plant or organism has suffered. This provision will catch people who release small quantities of polluting material which taken in isolation would not be a

problem but may well be a problem if released by more than one or two individuals.

Clauses 42 and 43 create offences of polluting water directly (42) or by releasing material onto or from land and polluting water indirectly (43). Subclause (2) of both clauses creates strict liability for landowners but a landowner who can prove that there was nothing that he or she could reasonably have been expected to have done to prevent the offence has a defence under clause 47 (2).

Clause 44 provides an offence in relation to the storage of material.

Clause 45 provides for regulations prohibiting certain acts or activities that have a pollution potential.

Clause 46 is an evidentiary provision.

Clause 47 sets out certain defences.

Clause 48 provides for the granting of licences.

Clause 49 provides for the renewal of licences.

Clause 50 makes it an offence to contravene a licence.

Clause 51 provides for the variation of licences.

Clause 52 provides for the disposal, escape or storage of material pursuant to regulations.

Clause 53 enables the Minister to take action in the case of unauthorised release of material. The Minister may by notice require prevention of further release and may require clean up of the material already released.

Clause 54 enables the Minister to act if in his or her opinion there is a risk that material will escape into water.

Clause 55 is an interpretive provision.

Clause 56 limits the application of Part VI.

Clause 57 regulates certain activities in relation to watercourses or lakes to which Part VI applies.

Clause 58 provides for the issue of permits.

Clause 59 makes it an offence to contravene a permit.

Clause 60 enables the relevant authority to order a landowner to take remedial action in relation to unauthorised obstructions, maintenance of a watercourse or lake in good condition or in relation to a contravention of clause 57.

Clause 61 is an interpretive provision.

Clause 62 requires that well drilling and associated work must be carried out by or under the supervision of a well driller licensed under Part VII. Subclause (2) provides a defence in the case of an emergency.

Clause 63 provides for the granting of well drillers' licences.

Clause 64 provides for renewal of licences.

Clause 65 provides for the issue of a permit to drill a well or carry out other associated work.

Clause 66 provides for contravention of a licence or permit.

Clause 67 enables the Minister to require remedial work to be done if there is a defect in a well or a well is in need of repair or maintenance.

Clause 68 requires the owner of land to ensure the maintenance of wells on his or her land.

Clause 69 provides for a right of appeal to the tribunal.

Clause 70 allows for a decision that is the subject of an appeal to be suspended pending the appeal.

Clause 71 makes it an offence to make a false or misleading statement in or in relation to an application for a licence or permit.

Clause 72 makes it an offence to interfere with property of the Crown.

Clause 73 provides for vicarious liability of employers or principals for offences committed by their employees or agents.

Clause 74 provides that members of the governing body of a body corporate that commits an offence are also guilty of an offence and liable to an equivalent penalty.

Clause 75 is an evidentiary provision.

Clause 76 provides a general defence.

Clause 77 makes the more serious offences under the Bill minor indictable offences and provides that proceedings may be taken within five years after the commission of an offence.

Clause 78 provides that where money is due under this Bill to the Minister or a public authority the money is a first charge on the land in relation to which the money is due.

Clause 79 provides for immunity from liability.

Clause 80 provides for exemption from the Act by regulation.

Clause 81 provides for the service of notices.

Clause 82 provides for the making of regulations.

Schedule 1 enumerates the Acts and agreements to which this Act will be subject (see clause 6).

Schedule 2 sets out transitional provisions.

The Hon. PETER DUNN secured the adjournment of the debate.

SOUTH AUSTRALIAN ETHNIC AFFAIRS COMMISSION ACT AMENDMENT BILL

The House of Assembly intimated that it had agreed to the Legislative Council's amendments.

MARINE ENVIRONMENT PROTECTION BILL

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

The Hon. BARBARA WIESE (Minister of Tourism): I move:

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

The Government has been concerned about the coastal waters since 1984. Investigations instigated by this Government have identified environmental problems and possible solutions. Some of these problems were found to require solutions different to those applied in other States, because the South Australian coastal waters include the large gulfs but receive few major rivers. The Government now proposes the Marine Environment Protection Bill 1989, which will give the Minister for Environment and Planning responsibility for protecting and enhancing the quality of the coastal waters of this State.

This is not to say that South Australia is a marine disaster. The coastal waters, for the most part, provide for the widest range of public uses. However, there is a danger in complacency, as other States have found, and this Government intends to ensure that the coastal waters of South Australia continue to provide all the possible benefits that future generations have a right to expect. This proposal closes an existing gap in the protection offered to South Australian coastal waters by providing a means to control private, State and local government-run industries and utilities which discharge their wastes into the sea.

There are about 80 examples of discharges which go directly to sea, and which require control. Unless these and other discharges can be effectively controlled, marine pol-

lution could reach unacceptable levels. Examples of substantial discharges are treated sewage off metropolitan Adelaide, and those from metal processing in Spencer Gulf. The problems with these discharges are known to include:

—excessive growth of algae or loss of seagrasses around effluent or sludge outfalls off the metropolitan coast;

—ecological changes and fish contamination.

It is proposed that the Marine Environment Protection Act would be administered by the Environment Management Division of the Department of Environment and Planning. This division specialises in pollution control in respect of air, noise, chemical and marine issues. These proposals have been developed with wide public consultation, including a white paper, which was released in June of this year.

The white paper was circulated to the 46 coastal councils, all members of Parliament, the Conservation Centre, the Coast Protection Board, the South Australian Fishing Council and the Recreational Fishing Advisory Council, major firms likely to be affected and to all persons/organisations that expressed an interest. It was publicised in the press, and a public meeting was organised through the South Australian Coastal Protection Group.

Twenty-seven submissions were received in response to the white paper, up to 18 and 15 August subsequently. As might be expected there has been broad support for the intent of this legislation from both conservation and industry groups. The support from industry is not surprising and reflects a commitment to environmentally responsible actions. The Chief Executive Officer of the Australian Chemical Industry Council, Mr Frank Phillips, in a letter to the press in June of this year, said that most industry is determined to weed out irresponsible operators and has consistently supported statements of effective laws and tough enforcement of environmental standards.

Although the white paper indicated that the Coast Protection Act would be the vehicle affording control of what was termed 'point-source' pollution, public response to this white paper strengthened the view that it would be sensible to anticipate the need to manage more diffuse sources of pollution from such things as stormwater runoff. Therefore, rather than restricting powers only to what was needed for the more obvious problems, the Government has prepared a Bill capable of encompassing a broader range of problems.

The Bill has been drafted to act in addition to other legislation controlling waste, water resources, coastal management, oil spills, sea dumping and marine operations. It complements that legislation. It does not displace any of the action plans or other controls which have been found quite effective in dealing with such emergencies as oil spills, but it does cover gaps in existing legislation. It will not override indentures which previous Governments have entered into with specific industries. However, the Government has been heartened by evidence of a high order of environmental responsibility in major industries in South Australia, as shown, for example, by the action plan developed by BHAS at Port Pirie. This involves planned expenditure of several million dollars.

This draft legislation fulfils a Government commitment to introduce protective legislation for the marine environment. In addition, the Government will ensure that the complementary provisions of the Environment Protection (Sea Dumping) Act commence at the same time so as to ensure the optimum protection of our coastal waters.

The legislation as drafted provides that all discharges not covered by other legislation will be licensed annually. Any licence would be subject to conditions that would accord with South Australian marine policy statements, developed with wide public consultation, and consistent with national goals. Existing discharges can be assured of a licence, but deadlines will be set for reductions of discharges to bring them to levels that are in line with international water quality objectives. In practice, reductions in levels will require industry to introduce the best of proven control technology.

The Bill is based on the 'polluter pays' principle. In addition to equipment costs, licensees would monitor and report on waste output, subject to independent audit. The cost of monitoring discharges, and of collecting and analysing samples for audit, would be borne by the licensee. While there is a necessary power to exempt the unforeseen, this would not extend to any regular industrial process in the public or private sectors. In fact, the South Australian Engineering and Water Supply Department will lead the way with its now well-publicised Statewide program for further sewage treatment to reduce contaminant load to the sea. Support for this legislation also reflects an awareness by some industries—for example, fishing and fish farming—that their particular interests will be afforded greater protection by the introduction of this legislation.

Clauses 1 and 2 are formal.

Clause 3 is an interpretation provision. The following definitions are central to the measure:

'prescribed matter' means any wastes or other matter, whether in solid, liquid or gaseous form:

Provision is made for the Minister to exclude specified kinds of matter from the definition by notice in the *Gazette*.

'coastal waters' means the coastal waters of the State within the meaning of the Commonwealth Coastal Waters (State Powers) Act 1980 and includes any estuary or other tidal waters:

'declared inland waters' means waters constituting the whole or part of a watercourse or lake, underground waters or waste waters or other waters, and declared by the Minister (with the concurrence of the Minister of Water Resources), by notice in the *Gazette*, to be inland waters to which the measure applies:

'land that constitutes part of the coast' is land that is—

(a) within the mean high watermark and the mean low watermark on the seashore at spring tides;

(b) beneath the coastal waters of the State;

(c) beneath or within any estuary, watercourse or lake or section of watercourse or lake and subject to the ebb and flow of the tide;

or

(d) declared by the Minister, by notice in the *Gazette*, to be coastal land to which the measure applies.

Clause 4 provides that the measure binds the Crown.

Clause 5 provides that the measure is in addition to and does not take away from any other Act. It expressly provides that the measure does not apply in relation to any activity controlled by the Environment Protection (Sea Dumping) Act 1984, or the Pollution of Waters by Oil and Noxious Substances Act 1987.

The clause enables regulations to be made excluding activities of a specified kind from the application of the measure or part of the measure.

Part II (clauses 6 to 20) contains provisions for the purposes of controlling discharges into the marine environment.

Clause 6 makes it an offence to discharge prescribed matter into declared inland waters or coastal waters or on land that constitutes part of the coast except as authorised by a licence under the measure. The clause expressly pro-

vides that lawful discharge into a sewer will not result in the commission of an offence.

Clause 7 makes it an offence to carry on an activity of a kind prescribed by regulation in the course of which prescribed matter is produced in declared inland waters or coastal waters, or prescribed matter that is already in such waters is disturbed, except as authorised by a licence under the measure.

Clause 8 makes it an offence to install or commence construction of any equipment, structure or works designed or intended for discharging matter pursuant to a licence or carrying out a prescribed activity pursuant to a licence. The clause also contains an administrative provision facilitating the issuing of licences for more than one purpose. The maximum penalty provided for any offence against clause 6, 7 or 8 is, in the case of a natural person, a Division 1 fine ($60 000) and, in the case of a body corporate, a $100 000 fine.

Clauses 9 to 18 are general licensing provisions.

Clause 9 provides that an application for a licence must be made to the Minister and enables the Minister to require further information from the applicant.

Clause 10 gives the Minister discretion as to the granting of licences but requires the Minister to make a decision within 90 days of an application for a licence.

Clause 11 provides that a licence is subject to any conditions prescribed by regulation and any conditions imposed by the Minister. The clause empowers the Minister to impose, vary or revoke conditions during the period of the licence.

Clause 12 sets the term of a licence at one year and makes provision for all licences to expire on a common day.

Clause 13 is a machinery provision relating to applications for renewal of a licence.

Clause 14 gives the Minister discretion as to the renewal of licences but requires the Minister to make a decision before the date of expiry of the licence.

Clause 15 requires the Minister, in determining whether to grant or refuse a licence or renewal of a licence and what conditions should attach to a licence, to consider official policies, standards and criteria that are applicable. Before granting a licence the Minister must be satisfied that the applicant is a fit and proper person to hold the licence. A licence cannot be granted authorising the discharge of any matter of a kind prescribed by regulation.

Clause 16 makes provision for the continuance of a licensee's business for a limited period after the death of the licensee.

Clause 17 enables the Minister to suspend or cancel a licence if satisfied that—

(a) the licence was obtained improperly;

(b) the licensee has contravened a condition of the licence;

(c) the licensee has otherwise contravened the Act;

(d) the licensee has, in carrying on an activity to which the measure relates, been guilty of negligence or improper conduct;

or

(e) the activity authorised by the licence is having a significantly greater adverse effect on the environment than that anticipated.

Clause 18 makes provision for the Minister to conditionally exempt persons from the requirement to hold a licence under the measure, where the activity for which the exemption is sought is not of a continuing or recurring nature.

Clause 19 requires the Minister to give public notice of any application for a licence or exemption, the granting of a licence or exemption, the variation or revocation of a condition of a licence or exemption or the imposition of a further condition of a licence or exemption.

Clause 20 provides for a public register of information relating to licences and exemptions.

Part III (clauses 21 to 24) contains enforcement provisions.

Clause 21 provides for the appointment of inspectors by the Minister. The instrument of appointment may provide that an inspector may only exercise powers within a limited area. An inspector is required to produce his or her identity card on request.

Clause 22 sets out inspector's powers. An inspector may, on the authority of a warrant, enter and inspect any land, premises, vehicle, vessel or place in order to determine whether the Act is being complied with and may, where reasonably necessary for that purpose, break into the land, premises, vehicle, vessel or place. An inspector may exercise such powers without the authority of a warrant if the inspector believes, on reasonable grounds, that the circumstances require immediate action to be taken.

Among the other powers given to inspectors are the following:

(a) to direct the driver of a vehicle or vessel to dispose of prescribed matter in or on the vehicle or vessel at a specified place or to store or treat the matter in a specified manner;

(b) to take samples for analysis and to test equipment;

(c) to require a person who the inspector reasonably suspects has knowledge concerning any matter relating to the administration of the measure to answer questions in relation to those matters (although the privilege against self incrimination is preserved).

The clause makes it an offence to hinder or obstruct an inspector or to do other like acts. Special provisions are included for dealing with anything seized by an inspector under the clause and for court orders for forfeiture in certain circumstances.

Clause 23 empowers the Minister to require a licensee to test or monitor the effects of the activities carried on pursuant to the licence and to report the results or to require any person to furnish specified information relating to such activities.

Clause 24 enables the Minister to take certain action to mitigate the effects of any breach of the Act. The Minister may direct an offender to refrain from specified activity or to take specified action to ameliorate conditions resulting from the breach. The Minister may take any urgent action required and may recover costs and expenses incurred in doing so from the offender. The clause makes it an offence to contravene or fail to comply with a direction under the clause with a maximum penalty of, in the case of a natural person, a Division 1 fine ($60 000) and, in the case of a body corporate, $100 000 fine.

Part IV provides for review of decisions of the Minister under the measure.

Clause 25 provides for a review by the District Court of a decision of the Minister made in relation to a licence or exemption or an application for a licence or exemption or of a requirement or direction of the Minister made in the enforcement of the measure. Any person aggrieved may apply for review. The application must usually be made within three months of the making of the decision, requirement or direction or, where the effect of the decision is recorded in the public register, within three months of that entry being made.

Part V (clauses 26 to 38) contains miscellaneous provisions.

Clause 26 makes it an offence to furnish false or misleading information. The maximum penalty provided is a Division 5 fine ($8 000).

Clause 27 enables the Minister to delegate powers or functions to a Public Service employee.

Clause 28 makes it an offence to divulge confidential information obtained in the administration of the measure except in limited circumstances. The maximum penalty provided is a Division 5 fine ($8 000).

Clause 29 provides immunity from liability to persons engaged in the administration of the measure.

Clause 30 sets out the manner in which notices or documents may be given or served under the measure.

Clause 31 is an evidentiary provision.

Clause 32 makes an employer or principal responsible for his or her employee's or agent's acts or omissions unless it is proved that the employee or agent was not acting in the ordinary course of his or her employment or agency.

Clause 33 provides that, where a body corporate is guilty of an offence against the measure, the manager and members of the governing body are each guilty of an offence.

Clause 34 imposes penalties for an offence committed by reason of a continuing act or omission. The offender is liable to an additional penalty of not more than one-fifth of the maximum penalty for the offence and a similar amount for each day that the offence continues after conviction.

Clause 35 provides that offences against the measure for which the maximum fine prescribed equals or exceeds a Division 1 fine ($60 000) are minor indictable offences and that all other offences against the measure are summary offences. A prosecution may be commenced by an inspector or by any other person authorised by the Minister. The time limit for instituting a prosecution is five years after the date on which the offence is alleged to have been committed. Where a prosecution is taken by an inspector who is an officer or employee of a council, any fine imposed is payable to the council.

Clause 36 enables a court, in addition to imposing any penalty, to order an offender to take specified action to ameliorate conditions resulting from the breach of the measure, to reimburse any public authority for expenses incurred in taking action to ameliorate such conditions or to pay an amount by way of compensation to any person who has suffered loss or damage to property as a result of the breach or who has incurred expenses in preventing or mitigating such loss or damage. The maximum penalty for non-compliance with such an order is, in the case of a natural person, a division 1 fine ($60 000) and, in the case of a body corporate, a $100 000 fine.

Clause 37 provides a general defence to any offence against the measure if the defendant proves that the offence did not result from any failure on the part of the defendant to take reasonable care to avoid the commission of the offence and that, in the case of an offence involving the discharge, emission, depositing, production or disturbance of prescribed matter, the defendant reported the matter to the Minister in accordance with the regulations. Such a person can still be required to take action to ameliorate the situation or can be required to pay compensation.

Clause 38 provides general regulation making power. In particular, the regulations may provide for different classes of licences and may authorise the release or publication of information of a specified kind obtained in the administration of the measure.

Schedule 1 contains transitional provisions. The Minister is required to grant a licence in respect of an activity that was lawfully carried on by the applicant on a continuous or regular basis during any period up to the passing of the measure. The Minister may impose conditions on the licence requiring the licensee to modify or discontinue the activity within a specified time.

Schedule 2 makes consequential amendments to the Fisheries Act 1982.

The Hon. PETER DUNN secured the adjournment of the debate.

ROAD TRAFFIC ACT AMENDMENT BILL (No. 3)

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

The Hon. ANNE LEVY (Minister of Local Government): I move:

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

Drink driving remains the single most important cause of road accidents in South Australia. About 50 per cent of fatal and 20-30 per cent of injury accidents involve a driver with an illegal blood alcohol concentration. It is the Government's policy to prevent accidents involving alcohol by deterring people from driving after drinking. Effective deterrence requires both a high risk of being caught drink driving, and severe consequences if one is caught. Random breath testing (RBT) was introduced to raise the perceived risk of being caught drink driving. After operating at suboptimal levels, RBT was increased in 1987 and was found to have succeeded in deterring drink driving. However, penalties for drink driving have changed little since 1981, and monetary penalties have not changed at all.

Work carried out for the Road Safety Division in 1988 showed that drivers believe the penalties for drink driving are no longer of sufficient severity to act as a deterrent. This weakens the impact of RBT, since there is little point in raising the perceived risk of being detected drink driving, if the penalties for detection are thought to be minor. The objective of this Bill is to raise penalties to a level which is sufficient to act as a deterrent to drink driving.

The most effective combination of penalties for drink driving is accepted as being a fine and a period of licence disqualification. For persistent offenders, rehabilitation and/or imprisonment are options. Licence disqualification periods for first offenders were increased on 1 July 1985 and are in line with disqualification periods in other States. However, the fines have not been increased since June 1981.

Since 1981, the consumer price index (CPI) has increased by about 80 per cent in Adelaide. The values of the fines in relation to the average wage have almost been halved which in turn leads to a partial explanation of their perceived lack of severity. The maximum fines which apply in South Australia are low compared with those in other mainland States. In fact, the maximum fines which apply in South Australia are lowest or equal lowest for the mainland States.

Simply increasing fines in line with the CPI is inappropriate. A more valid approach is to set maximum fines in accordance with those accepted and operating nationally. The overall result means that some increases would be slightly less than CPI whilst for the most serious offences, increases would be considerably greater.

South Australia has minimum as well as maximum fines for drink driving. Minimum fines act as a message to the public and the judiciary about the seriousness with which drink driving is regarded by Parliament. It is proposed that minimum fines also be raised to approximately maintain the percentage relationship to maximum fines. I commend the Bill to honourable members.

Clause 1 is formal.

Clause 2 amends section 47 of the principal Act, increasing the fines that can be imposed for the offence of driving under the influence of intoxicating liquor or drugs. Clause 2 also removes the reference in this section to the endorsement of conditions on a driver's licence under section 81a of the Motor Vehicles Act 1959. Section 81a of that Act no longer requires the conditions imposed by the section to be endorsed on a licence.

Clause 3 amends section 47b of the principal Act, increasing the fines that can be imposed for the offence of driving with more than the prescribed concentration of alcohol in the blood. This clause also removes the reference in section 47b to the endorsement of conditions on a driver's licence under section 81a of the Motor Vehicles Act 1959.

Clause 4 amends section 47e of the principal Act, increasing the fines that can be imposed for the offence of refusing or failing to comply with a direction to take an alcotest or breath analysis. Clause 4 also removes a reference in section 47e to the endorsement of conditions on a driver's licence under section 81a of the Motor Vehicles Act 1959.

Clause 5 amends section 47i of the principal Act, increasing the fines that can be imposed for the offence of refusing to submit to the taking of a blood sample. This clause also removes the reference in section 47i to the endorsement of conditions on a driver's licence under section 81a of the Motor Vehicles Act 1959.

The Hon. PETER DUNN secured the adjournment of the debate.

LONG SERVICE LEAVE (BUILDING INDUSTRY) ACT AMENDMENT BILL

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

The Hon. BARBARA WIESE (Minister of Tourism): I move:

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

The portable long service leave scheme established by the Long Service Leave (Building Industry) Act commenced on 1 April 1977. The scheme allows building industry workers in certain occupational categories and paid under the prescribed awards to become eligible for long service leave benefits on the basis of service to the industry rather than service to a particular employer. The benefits are 13 weeks long service leave after 10 years of service in the industry with pro rata benefits payable after 7 years of service.

At present, however, while electrical contracting and metal trades workers may be regarded as building workers, because they are subject to the provisions of the Federal Metal Trades (Long Service Leave) Award 1964, they do not enjoy the portability (able to carry entitlements from employer to employer) and long service leave entitlements of their building industry counterparts under the State legislation. Under the Federal award workers are entitled to long service leave after 15 years (10 years pro rata).

A proposal to extend the State scheme was first raised by the Electrical Trades Union in March 1988. At the request of the then Minister of Labour an industry working party was set up comprising representatives from the Electrical Trades Union, Electrical Contractors Association, Amalgamated Metal Workers Union, the Engineering Employers Association and the Long Service Leave (Building Industry) Board.

I am pleased to report that after extensive negotiations agreement was reached on the key areas of portability, date of operation, employer contribution rate and retrospective service. The working party also agreed existing employer contributors should not be disadvantaged by having to fund the new industries liabilities and costs associated in setting up the enlarged scheme. To this end it is proposed to establish a separate electrical contracting and metal trades fund. It is proposed this will be the subject of legislation to be introduced in the 1990 autumn session of Parliament.

This Bill will allow the Long Service Leave (Building Industry) Board in the interim to expend moneys from the Long Service Leave (Building Industry) Fund to meet the establishment costs of the enlarged scheme. The Bill will also provide for the repayment of any such funds used and also make provision to cover the loss of income earnings to the Fund.

Clause 1 is formal.

Clause 2 provides for the commencement of the measure.

Clause 3 inserts a new schedule 3 into the principal Act relating to the proposed extension of the Act to persons employed in electrical contracting and metal trades in the building industry. The board will be required to take such steps as are necessary in contemplation of the proposal. In particular the board will be empowered to use money from the Long Service Leave (Building Industry) Fund under the Act for the purposes of fulfilling its obligations under the schedule. Money paid out of the fund will bear interest at a rate determined by the Treasurer, after taking into account the matters set out in section 1 (4) of the schedule. The money will be a charge on a new fund that is to be established when the provisions of the Act are extended in the proposed manner. The Treasurer will guarantee the repayment of the money to the Long Service Leave (Building Industry) Fund.

The Hon. J.F. STEFANI secured the adjournment of the debate.

ADJOURNMENT

At 5.51 p.m. the Council adjourned until Thursday 26 October at 2.15 p.m.