LEGISLATIVE COUNCIL

Thursday 9 September 1993

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 Attorney-General (Hon. C.J. Sumner)—

South Australian Housing Trust—Financial and Statutory Reports, 1992-93.

By the Minister for the Arts and Cultural Heritage (Hon. Anne Levy)—

Mount Lofty Ranges Management Plan—Response to Report of the Environment, Resources and Development Committee of Parliament.

Planning Act 1982—Crown Development Report—Department of Marine and Harbors proposal to undertake development.

LEGISLATIVE REVIEW COMMITTEE

The Hon. M.S. FELEPPA brought up the minutes of evidence of the committee on the Corporation of Thebarton by-law No. 8 concerning cats.

ENVIRONMENT, RESOURCES AND DEVELOPMENT COMMITTEE

The Hon. M.J. ELLIOTT laid upon the table the seventh report of the committee concerning the inquiry into the Hindmarsh Island bridge project.

CONSTITUTIONAL REFORM

The Hon. C.J. SUMNER (Attorney-General): I seek leave to table a ministerial statement that is being given in another place by the Premier on the subject of constitutional reform, together with a copy of the submission by the South Australian Government to the Republic Advisory Committee.

Leave granted.

QUESTION TIME

WORKERS COMPENSATION

The Hon. R.I. LUCAS: I seek leave to make an explanation before asking the Minister representing the Minister of Education, Employment and Training a question about workers compensation.

Leave granted.

The Hon. R.I. LUCAS: The Auditor-General's Report, which was released yesterday, highlights the alarming increase in the cost of workers compensation for Education Department staff. Last financial year, the level of claims increased by $4 million on the figure for 1991-92; that is, a 28 per cent increase in just 12 months.

The Education Department is by far and away the highest claiming department in workers compensation claims and the 1992-93 statistics in the Auditor-General's Report show the cost of its claims as $18.3 million, which is three times that of the next highest claiming department, Correctional Services, with $6 million.

Indeed, while other departments have significantly pegged back increases in the cost of workers compensation claims—and in some departments such as police, primary industries and housing and construction even reduced the value of their claims—the Education Department's claims continue to grow like topsy each year.

Education Department claims for workers compensation have doubled since 1988 when they totalled a mere $9.1 million. It is worth noting that this increased cost of workers compensation of $9 million between 1988 and 1993 will be the equivalent of being able to employ an extra 300 teachers in our schools.

Principals believe that one major cause of this explosion has been the effects of inappropriate and ineffective Government policies on staff. For example, they say that the Government staffing policies are in disarray. Hundreds of teachers are forced to teach in subject areas for which they have not been properly trained, while hundreds of others have been dumped from schools under the Government's 10-year limited placement policy and asked to baby-sit classes as relief teachers.

Principals are also very angry at new Government policies, such as the national curriculum documents, which are forced on schools without proper consultation and proper training and development for staff. My questions to the Minister are:

1. Will the Minister concede that a 28 per cent increase in the cost of workers compensation claims in one year is unacceptable and, if so, what steps are the Minister and department taking to reduce the total cost of claims?

2. Will the Minister concede that had her Government contained compensation costs to about the same level as in 1988 an extra 300 teachers could have been retained in our schools?

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

MABO

The Hon. K.T. GRIFFIN: I seek leave to make an explanation before asking the Attorney-General a question about the Mabo debate.

Leave granted.

The Hon. K.T. GRIFFIN: A summary guide to the Commonwealth's proposed Native Title Bill states:

> . . . the Bill ensures that past grants over native title land—whenever they were made—can be validated.

The summary then refers to the validation of past grants (that is, made before 1 July 1993) extinguishing native title. It states:

> Native titleholders whose title is extinguished in these cases are entitled to compensation from the Government that made the grant.

These statements raise two issues: the first raises a question relating to the range of grants that may be validated by the Commonwealth legislation. There has been argument that not only will titles issued between 31 October 1975 and 1 July 1993 have to be validated but also grants made before 31 October 1975, in South Australia's case back to 1836. Yet previously the Attorney-General has said, although not in exactly these words but certainly to this effect, that it is a nonsense to suggest titles to backyards are at risk.

The Hon. C.J. Sumner: They are not.

The Hon. K.T. GRIFFIN: Well, if you look at the Commonwealth summary guide they are saying that the Bill

will enable past grants over native title land whenever they were made to be validated.

The second issue relates to compensation, which now the Commonwealth says has to be paid by the Government making the relevant grant, in this case the South Australian Government. If the issue of compensation is to go back to 1836 (or even only to 31 October 1975) potentially a large amount of money could be involved. The Premier, when he made his ministerial statement yesterday, ignored that issue of compensation. My questions to the Attorney-General are:

1. Is the Attorney-General yet aware what titles may in fact be the subject of validation as proposed by the Commonwealth, that is, the period within which the titles were granted, whether it is post-31 October 1975 or is likely to include titles issued before that time?

2. Does the South Australian Government agree to the payment by the South Australian Government of compensation as is envisaged by the Commonwealth or does the State take the view that that ought to be paid by the Commonwealth?

3. Has the South Australian Government made any estimate (or, I suppose one could say, 'guesstimate') of the total amount of compensation that may be payable by it and, if so, can the Attorney-General indicate what the amount might be?

The Hon. C.J. SUMNER: I hope that the honourable member is not coming into this Chamber again with the furphy about backyards being under threat as a result of Mabo.

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: The Commonwealth does not believe that backyards are under threat. The honourable member has no doubt read the Mabo decision and he has now read the working paper prepared by the South Australian Government team, December 1992, and the subsequent document of March 1993, which was tabled by me yesterday. Quite clearly, native title is extinguished by freehold title to land and generally by leasehold title to land. So, backyards are not under threat. That needs to be made quite clear once again.

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: I will have a look at what the honourable member says is the aspect of the Commonwealth paper, but I think what the Commonwealth is saying is that, if there is any doubt about title, it has to be validated where appropriate. The fact is that under the Mabo decision there is no doubt about freehold title held by Australian citizens. Freehold title has extinguished any native claim. On the question of compensation, the Government's view is that compensation for interests that were acquired after 1975, after the Racial Discrimination Act and contrary to that Act, should be made by the Commonwealth Government, but that subject is in the process of being negotiated at the present time and will be the subject of discussions between South Australia, the other cooperating States and the Commonwealth.

But it is our view that, as part of the package to resolve the Mabo issue on a national basis, compensation should be offered and paid by the Commonwealth Government for the period from 1975 through, presumably, to the current time. Obviously, in the future any compulsory acquisition made by the State of any land that was subject to native title would have to be compensated by the State in the same way as it is now for interests acquired by the State Government. The South Australian Government believes that, for the past, at least between 1975 and to date, the issue in dispute, compensation should be met by the Commonwealth Government.

That is not an issue that has just cropped up but one that has been the subject of discussion. Offers and counter offers have been made. At one stage I think the Commonwealth was not offering compensation and subsequently it was offering to pay compensation but then the talks collapsed, as the honourable member knows, so discussions are continuing and negotiating positions have shifted, to some extent. I do not have before me at the present time any 'guesstimate', as the honourable member has put it, of any compensation that might be payable for the period mentioned. I will see whether there is any estimate. I do not believe there is, except the general proposition that the amount of compensation in South Australia, at least, is not likely to be very great.

STATE TRANSPORT AUTHORITY

The Hon. DIANA LAIDLAW: I seek leave to make an explanation before asking the Minister of Transport Development a question about STA executives.

Leave granted.

The Hon. DIANA LAIDLAW: The Auditor-General's Report tabled yesterday reveals that last year the number of STA executives increased from six to eight, and that the total pay package for executives increased by $219 000—almost one-quarter of a million dollars—from $603 000 to $822 000. This increase in the number and cost of employing STA bosses is pretty amazing when one considers that the STA lost 3.7 million passengers last year, the taxpayer contribution to subsidise STA operations increased by nearly $6 million to $144 million and the total STA work force fell, including 115 employees through voluntary separation packages.

It is not only the increase in the number and cost of STA executives that is cause for concern. The Chairman and CEO of the STA, Mr Brown, has been accused by the STA staff and their representatives of adopting unorthodox practices and procedures for the appointment of executives following a reorganisation of management roles late last year. These concerns have been conveyed to the Minister's office and, according to the Minister's staff, to the Minister herself. Certainly I have correspondence on the matter and have had so for some time. Despite being urged to take up this matter publicly before this time I have resisted doing so in the expectation that the Minister would have investigated these concerns.

In particular the rapid rise of Mr Ian Purdey through the ranks of the STA has caused great agitation. In October 1992 he was appointed head of Infrastructure Development, reporting to Mr Kong, Director of Technical Services. As part of this process I have been advised that Mr Purdey was reclassified from level 11 of the salaried officers scale to the first level of the executive officers structure, a move which put Mr Purdey on a higher level than all other managers reporting to Mr Kong and which was done without consultation with Mr Kong. The position filled by Mr Purdey was not 'spilled and called', as is the usual practice within the STA and the practice required throughout the Public Service, and nor was his reclassification gazetted.

For some reason, which remains unclear, Mr Purdey's executive appointment bypassed the usual practice, whereby all executive level reclassifications are reviewed and approved by Cullen, Eagen and Dell, the job management consultants engaged by the STA. Two months ago Mr Purdey was moved up again to head the new Asset Management

Section within the Strategic Services Division, a position that once again was not advertised in the Public Service or beyond—in fact not even within the STA. There is also concern about a number of other recent executive appointments within the STA—positions again filled without applications being sought within the STA, the Public Service at large or the private sector. These positions are those of the Director of Customer Services filled by Mr Jim Kewley and the Director of Human Resources (Mr Dale Larkin). I therefore ask the Minister:

1. Why did the STA appoint two more executive officers last year, and how can this be justified as a prudent move, given the reduction in the general work force and the increased deficit of the STA?

2. Why, following the reorganisation of the STA, were none of the new executive level director positions advertised seeking nominations from within the STA, the public sector or the private sector?

3. Will she now agree to calls, and certainly I am aware that she has received such calls, from STA employees and their union representatives for an independent investigation to be undertaken—possibly by Ms Vardon who is now in charge of Public Sector Reform—into the management of the STA, including the procedures adopted by the STA's Chairman and General Manager, Mr Brown, in the recent appointment of executive level officers and, if not, why not?

The Hon. BARBARA WIESE: Mr President, there are a number of issues that the honourable member raises to which I am not able to respond at this time, and I will have to seek a report from the Chairman and Chief Executive Officer of the State Transport Authority as to the various details of the implementation of the recent staff reorganisation within the STA.

I can indicate in general terms that there has been a significant reorganisation of the corporate structure within the STA recently. It commenced being implemented in October last year and is now nearing completion. As part of that reorganisation about 15 service units have progressively been established within the STA.

One of the features of the reorganisation has been to remove the existing branch structure in the STA, and that is leading to a reduction in the number of directors and deputy directors within the organisation. There has also been decentralisation of all functions to depots that are required to enable the manager to provide a more response service to our customers. Since that has been in operation there has been a significant change, and members of the public have acknowledged and commended the STA on some of the changes that are occurring, because they are already feeling the impact of quicker response times when issues are raised with individual depots.

There has also been an examination of all head office functions to establish whether the authority should continue to provide them or whether they should be provided by others. New core service units are to operate at commercially viable rates in competition with outside providers and core units to operate to best practice standards are among the sorts of changes that have been taking place right across the organisation.

It should be noted that whenever there is a major restructuring of any organisation there are winners and losers, and inevitably in a situation like this there is considerable uneasiness and uncertainty created by a major restructuring. Some people like the changes and some do not. Some people like the people who have been appointed to certain positions and others do not. Inevitably, the people from whom we will hear most will be those who have been either disadvantaged or displaced or who believe that perhaps someone has been appointed to a position who should not have been appointed.

I am aware that the STA uses the consultancy firm Cullen Egan and Dell in determining appropriate salary rates for officers within the organisation and, as the restructure has taken place, appropriate advice has been provided by that organisation as to classification levels and salary scales.

As to the issue of whether positions were advertised, that is amongst the matters about which I have no information at this point, but I will certainly seek a report from the CEO of the authority on all the matters that are outstanding in my reply and he will be able to give us a full run-down on the changes that have occurred within STA management.

The Hon. DIANA LAIDLAW: I desire to ask a supplementary question. As my question sought an independent investigation of these matters, why is the Minister insisting on seeking a reply from the Chairman and CEO, who is the very man who is the subject of concern because of the manner in which he has conducted these appointments?

The Hon. BARBARA WIESE: He may be the subject of concern for the Hon. Ms Laidlaw—

The Hon. Diana Laidlaw interjecting:

The PRESIDENT: Order!

The Hon. BARBARA WIESE: The Hon. Ms Laidlaw has made a number of claims and allegations about Mr Brown and other individuals in the STA. I am not prepared to take the sort of action that the honourable member suggests I should take without making my own inquiries—

The Hon. Diana Laidlaw interjecting:

The PRESIDENT: Order!

The Hon. BARBARA WIESE: —about these matters. I will be making my own inquiries and if, on the basis of the replies I receive, I think that there is something untoward in the management decision making within the STA I will take action.

However, I will certainly not do it based on rumour and innuendo that is picked up by the Hon. Ms Laidlaw because, going on the track record of members of the Liberal Party on many previous occasions, I would be most unwise to do so.

ARTS BUDGET

The Hon. CAROLYN PICKLES: I seek leave to make a brief explanation before asking the Minister for the Arts and Cultural Heritage a question about the Auditor-General's Report.

Leave granted.

The Hon. CAROLYN PICKLES: The Auditor-General's Report tabled yesterday suggests that the State Theatre Company, the South Australian Film Corporation and State Opera had operating losses of $2.2 million, $1.2 million and $1.4 million respectively in the 1992-93 financial year, and there is concern in some quarters that they may be in financial difficulties. Will the Minister clarify for the Parliament the financial year results for the State Theatre Company, the South Australian Film Corporation and State Opera?

The Hon. ANNE LEVY: It certainly has been drawn to my attention that some of the figures in the Auditor-General's Report have been misunderstood by some members of the arts community. I am sure this arises from their lack of familiarity with reading detailed financial reports of the type put out by the Auditor-General.

One thing that the Auditor-General does do is work out the financial results for various organisations before taking into account the Government grants they receive, which to me is a rather odd way of looking at it, given that these organisations would not exist without Government grants and, indeed, they are not expected to survive without them.

For instance, the State Theatre Company is reported as having an operating deficit of $2.2 million, but this completely ignores the grants which the State Theatre Company receives both from both the State Government and the Federal Government through the Australia Council which added up to $2.205 million.

The South Australian Film Corporation is similar; at a first reading the figures suggest that there is a loss of $1.2 million, but this is not taking Government grants into account and is putting depreciation allowances into cash terms. In fact, the Government grants for different aspects of the Film Corporation amounted to $680 000, and depreciation values, which of course are not cash, amounted to $579 000, so that in fact the Film Corporation ends up with a cash surplus for the financial year. Likewise, State Opera is reported as having an operating deficit of $1.445 million, but this completely ignores the Government grants it received of $1.448 million.

I think an understanding of the way that the Auditor-General presents his accounts will show that, when Government grants and such matters are taken into consideration, all three organisations finish the year with a cash surplus—not large ones, but they are not expected to have large cash surpluses. Nevertheless, they are surpluses in any case.

SCHÜTZENFEST

The Hon. I. GILFILLAN: I seek leave to make an explanation before asking the Minister for the Arts and Cultural Heritage a question about the site for the 1994 Schuetzenfest.

Leave granted.

The Hon. I. GILFILLAN: It has recently been brought to my attention, and the Minister may not yet be aware, that the site for next year's Schuetzenfest is planned to be held in Adelaide rather than Hahndorf. She may also not be aware that the Adelaide City Council has given approval for it to be held on the Adelaide parklands in Bonython Park and that this will require fencing of the area for at least five days.

Last January 15 000 people made the journey to Hahndorf for the Schuetzenfest, so it is expected, with some justification, that many more thousands will attend in a central location next January. Everyone agrees that the Schuetzenfest is a great occasion. This means, however, that a section of Adelaide's sacred site, the parklands, will again be alienated from free and open access by the people. This is one of the clear principles of control of the parklands, which is itself endorsed by the Adelaide City Council.

It is appropriate to note that for the other significant event which takes place annually on the parklands, the Grand Prix, the fences have been up since the end of August and extensive fencing is in place now, as well as large advertisements for Campari and Marlboro, which poses an interesting question in that I believe it may be illegal advertising.

The reason for the Schuetzenfest transfer to Adelaide is to create accessibility for a greater number of people. The view held by many people is that it requires a place designed to cope with a large number of people. There are several such places in Adelaide. The Italian festival has for some years been held on the Norwood oval—a wonderful venue—and the Colley Reserve at Glenelg is frequently used for open air functions.

The Hon. J.F. Stefani interjecting:

The Hon. I. GILFILLAN: And the Glendi festival, as is mentioned. The Wayville showgrounds, as all honourable members know, are also ideally suited for functions of this nature and would be vacant at that time. My questions to the Minister are:

1. Was the Minister aware of the proposal?

2. Does she agree that this is an unacceptable intrusion into the parklands?

3. Will she urge the Adelaide City Council to reverse its decision to allow the Schuetzenfest to be held in the parklands?

The Hon. ANNE LEVY: I am happy to admit that I was totally unaware of this proposal. The Schuetzenfest would not come within my portfolio responsibilities. I can see that there are points for and against, and doubtless these have been considered by the organisers of the Schuetzenfest. I hope that the Schuetzenfest, like the Italian festival, the Glendi festival and other festivals which are to be held next year, will take into account the fact that next year is the centenary of women's suffrage, and it is our fervent hope that all such activities next year will provide some sort of focus to celebrate the centenary of the epoch-making decision that was made by this Parliament 100 years ago. We certainly hope that this will be regarded as being worthy of celebration which all sections of the community can recognise and in which they can take part.

I have no responsibility for the parklands; they are the responsibility, as the honourable member said, of the Adelaide City Council. I think it would probably be appropriate for me to refer the questions to the Minister of Housing, Urban Development and Local Government Relations who is responsible at Government level for liaising with local government of any description in this State.

SAGASCO HOLDINGS

The Hon. L.H. DAVIS: I seek leave to make an explanation before asking the Attorney-General, as Leader of the Government, a question about Sagasco Holdings.

Leave granted.

The Hon. L.H. DAVIS: The South Australian Government recently sold a 19.9 per cent shareholding in the publicly listed company Sagasco Holdings to Boral Limited for $3.40 a share. Boral subsequently announced a takeover offer for Sagasco Holdings at $3.50 a share. However, since the takeover offer from Boral was announced, Sagasco shares have consistently traded well above the $3.50 offer price, and today there have been sales in the stock market of Sagasco shares at $3.60.

There is a widespread view in the financial community, certainly in Adelaide and interstate, that Sagasco shares are under-valued at the offer price of $3.50. Strong profit results in recent years and excellent forecasts for future profit growth reflect the strong management of Sagasco in recent years, the growing gas market in Adelaide and other regions and the oil and gas explorations of the Sagasco group. Understandably, there have been concerns that another head office will be lost to South Australia if Boral succeeds in its bid for 100 per cent of Sagasco and that job losses could follow. The South Australian Government is the key to the outcome of Boral's bid because it still holds about 31 per cent of Sagasco shares,

and as yet it has not announced its intention with respect to this recent takeover offer from Boral. My questions to the Attorney-General are:

1. Was the Government aware that Boral was going to launch a bid for 100 per cent of Sagasco after being successful in bidding for 19.9 per cent of the South Australian Government's holding?

2. Does the Government now accept that there is a widespread view that the $3.50 offer price significantly under-values Sagasco Holdings in view of its strategic position and excellent earnings outlook?

The Hon. C.J. SUMNER: I will refer those questions to the appropriate Minister and bring back a reply.

STATE TRANSPORT AUTHORITY

The Hon. R.R. ROBERTS: I seek leave to make a brief explanation before asking the Minister of Transport Development a question about STA cuts.

Leave granted.

The Hon. R.R. ROBERTS: On Adelaide radio this morning the Hon. Diana Laidlaw indicated that a Liberal Government would cut the cost of running public transport by $34 million. Ms Laidlaw was pressed by Mr Jeremy Cordeaux as to how she would achieve this, and ultimately Mr Cordeaux was forced to accuse her of tap dancing. He probably confused her shadow portfolios. It was at this point that Ms Laidlaw clearly implied that there would be staff cuts at the STA head office. My questions to the Minister are:

1. Is this at odds with statements previously made by the Hon. Ms Laidlaw on staff cuts?

2. Has the Minister any comment to make about the Liberals' proposal to cut $34 million from the public transport system?

The Hon. BARBARA WIESE: I thank the honourable member for his question. I, too, heard the contribution that was made by the Hon. Ms Laidlaw on that radio program this morning. I was most surprised to hear the Hon. Ms Laidlaw making comments about STA head office staff because earlier this year, when she released her public transport policy, she made it quite clear, in announcing the details of that policy, that she was ruling out any service cuts, and she said that there would be no forced retrenchment of STA employees. However, she would not rule out the possibility of increased fares for public transport.

As we all know, the Hon. Ms Laidlaw was unceremoniously overturned by her own Leader, who put out a statement 24 hours later saying that, at least on fares, she had got it wrong from the Liberal Party's perspective because there would be no fare increases above the rate of inflation.

That is rather extraordinary when you take into account the sort of statements that were made then and the sort of statements that have been made today about implying that head office will lose many people from their staffing numbers under a Liberal Government. These people have not even managed to get into Government yet and they are already breaking promises. It is extraordinary that the Hon. Ms Laidlaw cannot even stick to her lines during the 12 months or so that she has to campaign in the run up to the next election.

With respect to the general policy that the honourable member outlined earlier in the year and the comments she made in particular about making $34 million cuts in the public transport system—

The Hon. Diana Laidlaw interjecting:

The PRESIDENT: Order!

The Hon. BARBARA WIESE: —they are matters that I also find rather interesting to contemplate because if there are to be no fare increases above the CPI (and we do not know whether there are or there are not, because an assurance given a few months ago is not something you can rely on today), and if service reductions are being ruled out, then the only place where those sort of savings can be made is in massive staff cuts. Since the STA budget currently is made up of approximately 70 per cent salaries, to achieve the sort of savings that the Hon. Ms Laidlaw is proposing will mean that there will be massive cuts in either staff or services.

Today we have seen the first break in the line that was put forward a few months ago. She has already indicated—

The Hon. Diana Laidlaw interjecting:

The PRESIDENT: Order!

The Hon. BARBARA WIESE: —that the statement—

The Hon. Diana Laidlaw interjecting:

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

The Hon. BARBARA WIESE: —she made a few months ago about staff in head office are not statements that we can rely on. Let us have a look at the record of Liberal Governments in other States of Australia in the transport area since they have taken over. What we see in the area of fares, for example, is that in Victoria fares for public transport increased by 10 per cent as soon as the Liberals were elected. In Western Australia they have increased by 20 per cent. What can we expect when the Liberal Party in this State—

The Hon. Diana Laidlaw interjecting:

The PRESIDENT: Order!

The Hon. BARBARA WIESE: —is elected should the people be so misguided as to elect it. Because, remember, we cannot rely on what the Hon. Ms Laidlaw says that its policy entails, any more than the Victorians—

The Hon. Diana Laidlaw interjecting:

The PRESIDENT: Order!

The Hon. BARBARA WIESE: —or the Western Australians could rely on what they were told by the Liberal Party before it was elected.

The Hon. Diana Laidlaw interjecting:

The PRESIDENT: Order!

The Hon. BARBARA WIESE: Because they, too, were told that various things would not happen, and as soon as the Liberals got into Government they did happen. On the other side of the coin, as far as this Government is concerned, our record is a very good one.

The Hon. Diana Laidlaw: You just lost 3.7 million passengers.

The PRESIDENT: Order!

The Hon. BARBARA WIESE: Because what we have done, and as the honourable member knows the figures for this year show a much lower decline because the systems we are putting in place—

The Hon. Diana Laidlaw interjecting:

The PRESIDENT: Order!

The Hon. BARBARA WIESE: —the new services we are putting in place—

The Hon. Diana Laidlaw interjecting:

The PRESIDENT: Order!

The Hon. BARBARA WIESE: —as the honourable member knows full well are arresting the decline.

The Hon. Diana Laidlaw interjecting:

The PRESIDENT: Order!

The Hon. BARBARA WIESE: The honourable member wants things to happen overnight but of course we cannot perform miracles overnight but what we are doing is implementing a range of services that are delivering the goods. We are arresting—

Members interjecting:

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

The Hon. BARBARA WIESE: —the decline in patronage but at the same time we have reduced operating costs by almost 20 per cent in eight years. We have done that in spite of the fact that our ownership costs have increased by some 35 per cent because we have invested in new railcars and buses to modernise our system. So that overall our total costs have actually fallen by 9.2 per cent. The net cost to the Government of the public transport system, contrary to the sort of things that the Hon. Ms Laidlaw tries to peddle in the media, have actually been reduced in real terms by some $13.4 million over those eight years I refer to.

We have achieved those things whilst maintaining low fares for the public. In fact, since the Victorian and Western Australian Liberal Governments were elected and increased their public transport fares, we now have the lowest public transport fares in Australia. That is the sort of record—

Members interjecting:

The PRESIDENT: Order!

The Hon. BARBARA WIESE: —of this Government in this area. The honourable member will introduce a system which must require a combination of staff cuts, service cuts and fare increases if she is going to achieve the sort of goal she is talking about. Of course, what she will say is that she will introduce a system of competitive tendering which will find all of these savings. The sort of system that she is advocating has not been particularly successful in other places—

The Hon. Diana Laidlaw interjecting:

The PRESIDENT: Order!

The Hon. BARBARA WIESE: —where it has been introduced. In the United Kingdom, for example, it has certainly brought about the sort of savings that might have been anticipated but it has also led to a 30 per cent increase in fares. It has also led to a 20 per cent—

Members interjecting:

The PRESIDENT: Order!

The Hon. BARBARA WIESE: —reduction in patronage. In New Zealand where they introduced systems—

The Hon. Diana Laidlaw interjecting:

The PRESIDENT: Order!

The Hon. BARBARA WIESE: —of this sort they have certainly been able to maintain staff wage levels, which they were not able to do in the United Kingdom—

Members interjecting:

The PRESIDENT: Order!

The Hon. BARBARA WIESE: —but they have had to cut staff by up to 40 per cent to reach the sort of savings targets that the new system in New Zealand was designed to bring about. They, too, have experienced a dramatic fall in patronage and services have not been increased significantly even though there has been this competitive tendering that is supposed to deliver such a wonderful service for the public.

I might say that in both of those two countries there is now serious concern about the asset quality, that is the service standards of the organisations-

The Hon. Diana Laidlaw interjecting:

The PRESIDENT: Order!

The Hon. BARBARA WIESE: —that are running the public transport system through private arrangements because in order to remain competitive—

Members interjecting:

The PRESIDENT: Order!

The Hon. BARBARA WIESE: —they are reducing—

Members interjecting:

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

The Hon. BARBARA WIESE: —the safety standards within their public transport systems. So there are some serious problems in the sort of policy that the honourable member is pushing. The real problem that South Australians must face in this area is that in Victoria and in Western Australia the Liberals said one thing and they have done something else since they were elected. We have already seen—

Members interjecting:

The PRESIDENT: Order!

Members interjecting:

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

Members interjecting:

The PRESIDENT: Order!

Members interjecting:

The PRESIDENT: Order!

The Hon. BARBARA WIESE: —statements made in the past few months—

Members interjecting:

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

Members interjecting:

The PRESIDENT: Order!

The Hon. BARBARA WIESE: —before these people can get into Government—

The PRESIDENT: Order! The House will come to order. The Hon. Ms Laidlaw had plenty of time to ask her question in silence; I expect the Minister to have the same silence when she answers a question.

The Hon. Diana Laidlaw: Free student travel for kids, remember that?

The Hon. BARBARA WIESE: And you were chief amongst them; you, the Liberal Party—

The PRESIDENT: Order! The honourable Minister will address the Chair and not the member.

The Hon. BARBARA WIESE: I am sorry, Sir. I am getting a little bit carried away, I am so outraged by the statement the honourable member makes—

Members interjecting:

The PRESIDENT: Order!

The Hon. BARBARA WIESE: —because the Liberal Party were chief amongst those in the community who demanded free public transport for young people be withdrawn. It was a very good social experiment destroyed by a few and the Liberal Party—

Members interjecting:

The PRESIDENT: Order!

The Hon. BARBARA WIESE: —were chief amongst those who demanded that it be withdrawn.

The Hon. Diana Laidlaw interjecting:

The Hon. BARBARA WIESE: We did it because—

The Hon. Diana Laidlaw interjecting:

The PRESIDENT: Order!

The Hon. BARBARA WIESE: —you demanded it should be withdrawn. The fact is, Sir—

Members interjecting:

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

The Hon. BARBARA WIESE: —that in a few months the Liberal Party has not been able to stick to its own policy; it is chopping and changing; people do not know what they are going to get in public transport if they get a Liberal Government.

Members interjecting:

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

MENTALLY DISABLED

The Hon. BERNICE PFITZNER: I seek leave to make an explanation before asking the Minister of Transport Development, representing the Minister of Health, Family and Community Services, a question about mentally disabled in the community.

Leave granted.

The Hon. BERNICE PFITZNER: Since the initial proposed closure of Hillcrest and its attendant relocation of patients into the community I have been deeply concerned as to the support system in the community for the mentally disabled. We are told that deinstitutionalisation is the way to go and that patients will be much better off in the community. However, for such a change funds must be spent to provide a support system for the mentally disabled in the community. These funds do not appear to be provided. There are allegations that a male person needing medication was refused admission into Glenside. The police later had to take this person to the RAH for admission. Further, another male attempted to strangle his mother—and he had just been discharged from Glenside. Many patients are living in Housing Trust homes and it has been reported that filth and wreckage of the homes are a major concern. Many mentally disabled now located in the community have had their TVs stolen from their Housing Trust homes. My questions are:

1. How many people discharged from mental institutions are now living in Housing Trust homes?

2. What support do they receive?

3. How many Housing Trust homes have been devastated by mentally disabled tenants?

4. Who checks and monitors that these known mentally disabled take their medication daily? If there are no checks, how can one gauge that medication will be taken regularly?

5. How many patients from the outpatients section of Hillcrest fail to keep their appointments and, therefore, fail to obtain their medication? Is there any follow up as to whether they have sufficient medication?

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

HINDMARSH ISLAND BRIDGE

The Hon. M.J. ELLIOTT: I seek leave to make an explanation before asking the Minister of Transport Development a question about the Hindmarsh Island bridge.

Leave granted.

The Hon. M.J. ELLIOTT: Today the report of the Environment, Resources and Development Committee was tabled in this place. Its first recommendation was that a reassessment of the bridge project be instigated in the light of the preceding comments and that this review should examine better access for the island and marina development by augmenting the present ferry service and a second ferry. Reading through the report, the major points that the committee used to make that recommendation included the fact that the deed between Binalong, the Government and the Goolwa and Port Elliot District Council was considered to be legally uncertain, and this had been compounded by recent legal action that could lead to the liquidation of Binalong. The deed placed no legal obligations on the successors of Binalong.

There was also concern that, whilst the methodology of the calculations may have been correct, the assumptions may not have been. In particular, the costing of the ferry alternative was considered to have been significantly overstated. Another concern was the impact on tourism due to the effect on the Goolwa heritage area, with what is basically a four-storey high bridge going through the Goolwa heritage wharf area and through the area where the cockle train passes, as well as impacts on tourism due to the loss of the ferry, which is a drawcard in its own right.

The last of the major four points, I suppose, is the impact of uncontrolled tourism on wetlands subject to international treaties for migratory birds. The committee noted that when the EIS was carried out in relation to the bridge and the marina development—probably the fastest EIS that has ever been done in this State—the Chief Wildlife Officer of the National Parks and Wildlife Service was not even consulted. This is an area of international significance and we have signed international treaties in relation to migratory birds, yet the Government's own Chief Wildlife Officer was not consulted. Those among many concerns led to that recommendation. It is noted that the major legal obstacle appears to have been an exchange of letters between Premier Bannon and Westpac. I ask the Minister:

1. Why did the Government bind itself so tightly by way of some of these legal agreements, some of which look even legally shaky?

2. Will the Government, on the recommendation of an all-Party standing committee, take the time to reassess the project or will it continue in the way it has worked in the past—pig headedly?

The Hon. BARBARA WIESE: This Government does not work in a pig headed way: it works in a measured and careful way. We try to assess carefully any issues that are before us, particularly in the development area, where there has been enormous controversy in South Australia over a number of years about development projects. We are particularly careful to try to strike the right sort of balance. As the committee itself, I understand, has acknowledged, these things are a matter of balancing heritage, environment and development issues and, inevitably, where all those things are being taken into consideration, there is likely to be necessary some compromise on some or all of those levels in achieving an outcome for the broader community good.

The honourable member has raised concerns about the financial assessments that have been included in the decisions that were taken by the Government with respect to this bridge and suggests that perhaps the methodology might have been okay but that some of the assumptions were wrong. As I understand it, the committee also indicated in its report that it lacked financial expertise and that it was not really able to properly assess—

Members interjecting:

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

The Hon. BARBARA WIESE: It also indicated that it was not really able properly to assess the financial information that was provided to it. On my very quick observations of the report in the very short time that I have had available to me, I found that the report is rather an ambivalent

document in many ways. It says on the one hand that there must be change and must be an improvement in access to the island, that it recognises that development must go ahead and that the process is almost complete but, on the other hand, it recommends a series of issues or raises the concerns of individuals within the community without also giving some sort of idea of who these people are or what their standing is with respect to the sort of advice that they have provided.

So, it is a document that has a number of varying and contradictory views, if I might say so. However, looking specifically at the recommendations, my reaction to those is, first, that the Government has already acted on some, is in the process of acting on others, and some issues that have been raised have already been investigated. One recommendation that is made I, for one, would not favour and would not be recommending to the Government. I refer to the recommendation relating to tolls for either the ferry or a bridge. I do not personally favour the introduction of tolls and—

Members interjecting:

The PRESIDENT: Order!

The Hon. Diana Laidlaw interjecting:

The PRESIDENT: Order! The Hon. Ms Laidlaw will stop talking across the Chamber.

The Hon. BARBARA WIESE: Mr President, currently there is no legislative power that would enable a toll to be levied, and it would require a legislative change to bring that about. As to the other recommendations that are made, there are two recommendations relating to environmental matters. One of them requires that there should be a proper environmental plan for the area prior to changes taking place. That is already under way. The Department of Environment and Land Management is preparing such a plan and it must do so as a condition of the planning approval that was given for the Binalong project in the first place. The committee also wants to ensure that any future development proposals for the island are properly scrutinised and that proper planning procedures are set in place. That would happen as a matter of course under our planning system, so those things will happen; there will be proper scrutiny. As to the question of a review of the recommendations which might lead to the use of, say, a twin ferry as an option instead of a bridge, that is something that has already been properly investigated and assessed. It would cost twice as much for us to operate and maintain a twin ferry service than to build a bridge.

Members interjecting:

The PRESIDENT: Order!

The Hon. BARBARA WIESE: It would cost twice as much—it would cost about $1 million to choose that option. It is not in taxpayers' interests to choose that option. So, I suggest that the—

Members interjecting:

The PRESIDENT: Order!

The Hon. BARBARA WIESE: —issues that have been raised by members of the committee have already been given proper consideration, and I cannot see any reason—

The Hon. M.J. Elliott interjecting:

The PRESIDENT: Order! The Hon. Mr Elliott will come to order.

The Hon. BARBARA WIESE: —based on the information that I have about the contents of the committee's report, for the Government to change its current policy stand.

MEMBER'S REMARKS

The Hon. DIANA LAIDLAW: I seek leave to make a personal explanation.

Leave granted.

The Hon. DIANA LAIDLAW: Earlier today in Question Time, while the Minister was answering a question from the Hon. Mr Ron Roberts the Minister accused me of breaking promises, of not being able to hold a line and of contradicting statements that I had made in the past 18 months in respect to future policy by a Liberal Government for passenger transport. I need to put on the record that the statements and accusations simply confirm that this Government and this Minister has nothing to sell but fear and falsehoods.

The Hon. ANNE LEVY: Mr President, I rise on a point of order.

The PRESIDENT: Yes: I know what the point of order is. The member has sought leave to make a personal explanation and that should not extend into other areas.

The Hon. DIANA LAIDLAW: The accusations made by the Minister are false and they have no foundation at all. I made the statement on Jeremy Cordeaux's show today that there would be reductions and cuts in jobs in STA House on North Terrace just as there are reductions and cuts in staff there at the present time. The Minister knows that there is already—

Members interjecting:

The PRESIDENT: Order! The honourable member is debating the issue.

The Hon. DIANA LAIDLAW: —one third of vacant space in STA House.

The Hon. ANNE LEVY: Mr President, on a point of order—

The PRESIDENT: Yes, I uphold the point of order: I know what it is going to be. The honourable member is making a personal explanation. I do not want the issue debated. If the honourable member has something to say about something that has been said against her, put it there on the record, but do not otherwise debate the issue.

The Hon. DIANA LAIDLAW: I am sorry, Mr President, but there were so many wild statements made by the Minister I thought it was important to get some of them correct. There will be reductions and cuts just as there are by this Government at the present time, and they will be through voluntary separations. 'There will be no forced retrenchments' is the statement that I made in January. That is Liberal Party policy and it remains policy today and it will remain the policy in government. There will be voluntary separation packages.

The Hon. ANNE LEVY: I rise on a point of order, Mr President. A personal explanation is not an opportunity for expounding Party policy. It can only refer to personal matters.

The PRESIDENT: I uphold the point of order. I have requested the honourable member to confine her remarks to a personal explanation relating to herself and not to debate the issue; but she is still straying off on to the issue.

The Hon. DIANA LAIDLAW: I am sorry, Mr President. I will sum up by simply indicating that I was accused of—

The PRESIDENT: The honourable member does not have to sum up anything; it is a personal explanation.

The Hon. DIANA LAIDLAW: I was accused of a number of things, all of which are false and it was necessary to reconfirm Liberal Party policy because of the fear and lies that have been spread.

The PRESIDENT: Well, it is not necessarily a personal explanation. Call on business of the day.

RESIDENTIAL TENANCIES (HOUSING TRUST) AMENDMENT BILL

The Hon. ANNE LEVY (Minister for the Arts and Cultural Heritage) obtained leave and introduced a Bill for an Act to amend the Residential Tenancies Act 1978, and to make consequential amendments to the South Australian Housing Trust Act 1936. Read a first time.

The Hon. ANNE LEVY: I move:

That this Bill be now read a second time.

This Bill proposes to bring the South Australian Housing Trust under the jurisdiction of the Residential Tenancies Act. Previously the trust has been exempt from the provisions of the Residential Tenancies Act and has dealt with its tenants on an internal basis. Serious legal matters such as evictions were dealt with in the Supreme Court. The new jurisdiction will make dispute resolution easier and more efficient for both the trust and its tenants. For operational, legislative and policy reasons, the trust will retain a handful of exemptions to specific sections under the Act and some sections have been modified to accommodate normal trust practices and procedures established under the trust's own legislation.

At the present time Housing Trust tenancies are not subject to the provisions of the Residential Tenancies Act, which, with some exceptions such as boarding and lodging houses, covers private tenancy situations in South Australia. Trust tenancies were originally excluded from the Residential Tenancies Act on the ground that a number of provisions under that Act were not consistent with public housing policy. Despite its exclusion from the Act the trust has always sought in principle to abide by the spirit of the legislation where consistent with the trust's role and objectives.

Two important reasons exist to now justify bringing the trust under the Residential Tenancies Act. The first is that it would be consistent with the spirit of tenure equity between private and public tenants. The second is that it will provide a judicial forum for dispute resolution, which will be more efficient for the trust and less stressful for trust tenants, particularly compared to the Supreme Court.

The South Australian Housing Trust has also established its own administrative review process which provides public housing tenants with the opportunity to have trust decisions reviewed. A tenant will not lose the right to apply to the Residential Tenancies Tribunal for the resolution of a dispute within the jurisdiction of the tribunal, even where the trust's internal review process may apply, has commenced or has been completed. The Residential Tenancies Tribunal will have the power to decline to hear matters where it believes that dispute can be resolved by more appropriate means such as internal review.

The exemptions which will be granted to the trust fall broadly into the categories of notice provisions for rent increases and for termination of tenancies, the method of issuing receipts, duties to repair items introduced to the property by tenants and security bonds. The exemptions reflect and accommodate the trust's role as a public housing authority. The trust will be exempted from the requirement to lodge bonds with the tribunal due to the small size of the bonds it customarily takes from tenants. Consequently, because the tribunal is funded from interest on the bonds of private tenants, the trust will be required to pay a fee whenever it or one of its tenants makes application to the tribunal.

Because the rent imposed by the trust is frequently means tested to suit individual circumstances, the trust will be exempt from notice provisions with respect to variation in rent in order to enable it to react promptly when a tenant's circumstances change. Further, general increases of trust rent are required to be submitted to Cabinet for approval, ensuring appropriate review.

The trust allows tenants to make payments through electronic funds transfer and at post offices and consequently it is not practical for the required receipt to be issued in those circumstances. Electronic funds transfer is already addressed in the Act while the post office exemption can be left to regulation.

It is proposed that the trust be exempted from the requirement to repair or maintain fixtures and fittings which are deemed by regulation to be non-standard. Similar provisions exist with respect to housing co-operatives. The trust may choose to repair such items at its discretion.

As the trust has a responsibility for providing housing strictly in accordance with its application list, tenants will not be permitted to assign or sublet.

The trust will be required to give adequate notice of termination in accordance with specific grounds, such as the need to move a tenant to alternative accommodation, which will be established by regulation under the trust's own legislation.

Finally, the opportunity is being taken to include a provision in the Act that allows for appointment of a standing deputy to the head of the Residential Tenancies Tribunal. This change is prompted partly by the expected increased workload for the tribunal that will result from the application of the Act to Housing Trust tenancies. It will also avoid the need for acting appointments to be made by the Governor to deal with temporary absences of the head of the tribunal. The office of head of the tribunal is currently entitled 'Chairman'. Consistently with the policy of making titles clearly 'gender-neutral', the titles 'President' and 'Deputy President' are adopted under the Bill. I seek leave to have the explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Clause 1: Short title

This clause is formal.

Clause 2: Commencement

The measure is to be brought into operation by proclamation.

Clause 3: Substitution of s. 6—Acts binds the Crown

Section 6 currently provides that the Residential Tenancies Act is binding on the Crown but makes an exception in relation to tenancy agreements to which the Housing Trust is party. This provision is replaced by the now usual provision binding the Crown in right of the State and (so far as the legislative power of the State permits) the Crown in any other capacity, but not so as to impose any criminal liability. In consequence, the Act will apply to the Housing Trust in future.

Clause 4: Amendment of s. 14—Residential Tenancies Tribunal

This clause redesignates the head of the Tribunal as 'President' rather than the gender-specific title of 'Chairman'. The clause makes provision for appointment of a standing deputy to the head of the Tribunal—a 'Deputy President'.

Clause 5: Amendment of s. 17—Registrar may exercise jurisdiction of Tribunal in certain matters

This clause makes a consequential amendment changing a reference to the Tribunal Chairman to a reference to President.

Clause 6: Amendment of s. 20—Constitution and times and places for proceedings of Tribunal

This clause makes a similar consequential amendment.

Clause 7: Amendment of s. 22—Powers of Tribunal

This clause changes references to the local court to references to the Magistrates Court in relation to enforcement of monetary orders of the Tribunal.

Clause 8: Amendment of s. 24—Proceedings of Tribunal

Section 24 sets out powers of the Tribunal in hearing applications. The clause adds a further provision making it clear that the Tribunal

may decline to hear an application, or may adjourn a hearing, until the fulfilment of conditions fixed by the Tribunal with a view to promoting the settlement or resolution of matters in dispute between the parties.

Clause 9: Amendment of s. 29—Appeal to District Court

This clause updates references to the local court to references to the District Court in the provision conferring a right of appeal against Tribunal decisions.

Clause 10: Amendment of s. 32—Security bond

Section 32 requires that a security bond provided by a tenant be paid to the Tribunal. The clause makes an exception for bonds received by the Housing Trust.

Clause 11: Amendment of s. 34—Variation of rent

Section 34 regulates variation of rent under residential tenancies agreements. Under the section, 60 days notice of a rent variation is required and rent variations are limited to at least six monthly intervals. The clause adds a provision that this section is not to apply to a residential tenancy agreement to which the Housing Trust is a party.

Clause 12: Amendment of s. 35—Increase in security bond

Section 35 regulates variation of security bonds—requiring that there be a prior variation of the rent and at least 60 days notice of variation of the security bond and limiting variation of security bonds to at least two yearly intervals. The clause adds a provision that this section is not to apply to a residential tenancy agreement to which the Housing Trust is a party.

Clause 13: Amendment of s. 36—Excessive rent

Section 36 provides for application to the Tribunal for determination whether the rent under a residential tenancies agreement is excessive. The clause adds a provision excluding Housing Trust tenancies from the application of this section.

Clause 14: Amendment of s. 46—Landlord's responsibility for cleanliness and repairs

Section 46 provides that it will be a term of a residential tenancy agreement that the landlord provide and maintain the premises in a reasonable state of repair having regard to their age, character and prospective life and that the landlord compensate the tenant for reasonable expenses incurred in effecting 'emergency repairs'. The clause amends this provision so that the terms will not apply to things of a kind prescribed by regulation where the landlord is the Housing Trust.

Clause 15: Amendment of s. 52—Right of tenant to assign or sub-let

Section 52 allows assignment and sub-letting by a tenant with the consent of the landlord (which consent may not be unreasonably withheld). The clause amends this provision so that it does not apply to a residential tenancy agreement under which the Housing Trust is the landlord.

Clause 16: Amendment of s. 64—Notice of Termination by landlord on the ground that possession required for certain purposes

Sections 63, 64 and 65 set out the basic means by which a residential tenancy agreement may be terminated by a landlord. Section 63 provides for not less than 14 days notice of termination for breach of the agreement—this provision is not affected by the Bill. Section 64 sets out certain grounds on which a periodic tenancy (that is, a tenancy that is not for a fixed term) may be terminated. These include that the premises are required for demolition or substantial repairs or renovations, or for occupation by the landlord or his or her spouse, child or parent or the spouse of his or her child or parent, or in order to give vacant possession on sale of the premises. Under the clause, this provision is not to apply to Housing Trust tenancies. Clause 18 below deals with section 65 which allows 120 days notice to terminate a periodic tenancy without any grounds being required to be given by the landlord. Under clause 18, that basis of termination is not to apply to Housing Trust tenancies.

Clause 17: Insertion of s. 64aa—Notice of termination by South Australian Housing Trust

This clause inserts a new provision establishing a separate basis for termination of Housing Trust tenancies in place of those applicable to periodic tenancies under sections 63 and 65. Under proposed new section 64aa, the Housing Trust may give notice of termination of a Housing Trust tenancy on a ground prescribed by regulation under the South Australian Housing Trust Act 1936. The proposed new section fixes 120 days as the minimum period of notice for such termination or allows a greater period of notice to be required by regulation under the South Australian Housing Trust Act 1936.

Clause 18: Amendment of s. 65—Notice of termination by landlord without any ground

This clause has been explained in the explanation to clause 16 above.

Clause 19: Amendment of s. 81—Protection of tenants in relation to persons having superior title

Section 81 provides protection for a sub-tenant where the head landlord is proceeding to recover possession of premises from the landlord's immediate tenant. The section authorises the Tribunal or another court to vest a tenancy in the sub-tenant to be held directly of the head landlord. Under the clause, any such vested tenancy is to be limited to a maximum of 42 days where the head landlord is the Housing Trust.

Clause 20: Transitional provisions

This clause provides for the principal Act to apply to existing Housing Trust tenancies but only so that proceedings may be brought under the Act in relation to acts, omissions or matters occurring or arising after the commencement of this amending measure.

Provision is also made so that the change of the title of the head of the Tribunal does not affect the existing appointment.

Clause 21: Amendment of South Australian Housing Trust Act 1936

This clause makes various amendments to the South Australian Housing Trust Act 1936 that are consequential to the provisions applying the Residential Tenancies Act to Housing Trust tenancies. Section 26 of the South Australian Housing Trust Act provides that the Trust may let houses and fix the terms and conditions of any such letting. This section is amended so that it is clear that this will be subject to the provisions of the Residential Tenancies Act.

Section 27 of the South Australian Housing Trust Act provides for rent adjustments by the Trust. The clause amends the section so that it provides the appropriate general guidance that rents should be the same or similar in amounts for houses that provide similar accommodation and are situated in the same or a similar locality.

Section 32, the regulation-making provision, is amended so that it is clear that regulations can be made under the South Australian Housing Trust Act prescribing the grounds for termination of Housing Trust tenancies under the Residential Tenancies Act and prescribing the minimum period of notice for termination on any such ground.

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

ENVIRONMENT PROTECTION BILL

The Hon. ANNE LEVY (Minister for the Arts and Cultural Heritage): I move:

That it be an instruction to the Committee of the Whole that it have power to consider a new clause in relation to an amendment of the Development Act.

Motion carried.

MUTUAL RECOGNITION (SOUTH AUSTRALIA) BILL

Adjourned debate on second reading.

(Continued from 8 September. Page 372.)

The Hon. M.S. FELEPPA: When this Bill was debated just before the end of last session, time constraints did not permit me to participate. I now take the opportunity to do what I intended to do at that time. Let me say at the outset that I support the Bill because it is an important piece of legislation. I hope that this time the Bill will go through because it will benefit many people in our community. The passing of the Bill will benefit Australia in the eyes of other countries of the world.

I must say that when the Bill was defeated on the last occasion I was concerned, disappointed and surprised, especially as I knew of the concern of two colleagues on the Opposition benches, particularly the Hon. Dr Pfitzner and her colleague the Hon. Julian Stefani, about the lack of progress of the Bill. However, they were not able to persuade their Party colleagues to ensure that the Bill had adequate support.

I would like to bring to the attention of the Council that since the defeat of the Bill I have contacted many people involved in the professions and in business. I embarked on a strategy to ensure that a degree of consultation took place between community leaders and members of Parliament. Certainly, I contacted many people and leaders in the community. I wrote to many of them, and I would like to quote the text of my letter on the record. I sent a letter to the South Australian Chamber of Commerce. The letter, written to the General Manager of the Chamber of Commerce and Industry of South Australia, reads as follows:

Dear Mr Thompson,

By way of information I wish to draw to your attention the unfortunate defeat in the Legislative Council of the Mutual Recognition (South Australia) Bill, during the last sitting of Parliament.

This Bill was introduced by the Government to enable South Australia to enter into a scheme for the mutual recognition of regulatory standards for goods and occupations adopted in Australia. One of the aims of this legislation was to allow people who are assessed and registered in one State or Territory to be good enough to practise an occupation or profession to then to be allowed to practise that profession or occupation in all States and Territories.

The unfortunate defeat of this legislation will now ensure that all sorts of anomalies will remain in the recognition of professions and in the recognition of regulatory standards between States.

It should also be pointed out that, if a person carries overseas qualifications for a particular profession or occupation and this qualification is recognised and registered in one State, there is currently no obligation for such a qualification to be mutually recognised in South Australia.

After 92 years of Australian federation it seems amazing that this situation can continue, especially when one considers that the European Community, with all of its cultural, language, economic and social differences, is managing to move towards a single market with mutual recognition of its members' educational and professional qualifications.

I would therefore urge you and your organisation to examine the implications of the attached material which outlines the scope of this Bill and, if you feel it necessary, I would encourage you to make your views and concerns known to all political Parties in South Australia.

I will be working towards ensuring that the Bill will be reintroduced in the forthcoming session, and I would be pleased to hear any of your views on this issue.

I wish also to read an answer to those letters which I sent to many organisations. I will now refer to the answer from the Law Society of South Australia, with which I am sure the Hon. Trevor Griffin is very familiar. The letter reads as follows:

Dear Mr Feleppa,

Thank you for your courtesy in providing information and the background details about the defeat of the Mutual Recognition (South Australia) Bill in the Legislative Council. The Law Society supports the general concept of mutual recognition and has been working strongly to achieve an agreed basis for admission and practice of members of the legal profession across of Australia. Together with the Law Council of Australia and other law societies we have spent considerable time over the past few months to provide the Standing Committee of Attorneys-General with an agreed national position. As you pointed out, at present there are many anomalies and inconsistencies between States in the practice of the law. This society also would support related moves to bring about legislative consistency in various specific areas—defamation law is a good example—across the State.

The principle of mutual recognition is very critical, particularly to overseas skills, and without mutual recognition overseas professionals (teachers or those with any other qualification) would be faced with an unpredictable scenario by the rejection of legislation such as this.

To this extent I would like to quote one paragraph from *Hansard* that the Hon. Trevor Griffin uttered during his contribution to this legislation. He said:

The previous memorandum contained an interesting minute which included that a resolution was passed by the Multicultural and Ethnic Affairs Council that the work of the commission and other bodies especially involved in the area of recognition of overseas qualifications over the past few years also has effectively been wasted.

The honourable member continued by saying:

That was a reference to the fact that the Mutual Recognition Bill had not passed the Legislative Council. I wanted to take the opportunity to join issue with that and to say that in my view that is a nonsense; that is not a consequence of the failure of the Bill to pass in South Australia.

Regrettably, like many in our community, especially from the ethnic communities, I cannot agree with the Hon. Mr Trevor Griffin. I agree with many others that the rejection of this Bill will be to waste all the long, hard work that has been done in the area not only of the multicultural affairs of this State—indeed of all other States—and that done by many other groups who have worked relentlessly for many years to make sure that the recognition of overseas qualifications would be somewhat better processed in the future.

As it is, it will not eliminate the many anomalies and inconsistencies that have rightly been pointed out by the Law Society of this State. I might add that the Hon. Trevor Griffin appeared to have perhaps selectively quoted part of a resolution which was passed by the Multicultural and Ethnic Affairs Commission and which I do wish to put on the record in its full context. The resolution passed by the Multicultural and Ethnic Affairs Commission reads as follows:

That the commission notes that the Mutual Recognition (South Australia) Bill was recently defeated in the Legislative Council. The commission believes that the defeat of the Bill will now ensure that all sorts of anomalies will remain in the recognition of professions. Furthermore, the work of the commission and other bodies especially involved in the area of recognition of overseas qualifications over the past three years also has effectively been wasted. This aspect of the Bill, together with the known recognition Australia-wide of all professions, represents an under-utilisation of human resources at a time when greater efficiencies are needed and people need to travel interstate in pursuit of employment opportunities. The commission requests that the Government continues the pursuit of this aspect of the Bill and endeavours to see its passage through the legislative process, at the same time making the commission's concerns known to all political Parties in South Australia.

I am aware that this resolution and the more general views of the commission were passed to the Leader of the Liberal Party in both Houses of this Parliament as well as to the Hon. Mr Gilfillan, and I believe that from that sort of approach a degree of consultation has taken place since the defeat last time and that this time, with the Bill now before the Council again, some sort of fruitful hopes have been produced. I hope that personally I am not wrong in thinking in that way.

I now return more directly to the debate on this Bill, and I take the opportunity to draw the matter to the attention of the House and particularly to that of the Attorney-General. As I said, I do support the Bill. I will not propose any amendments, but I feel that it is my duty to raise a number of concerns that were raised with me during the past couple of months.

It was put to me that the Bill should have been looked at bearing in mind the need in the future for all jurisdictions to amend the adopting Acts and for the Commonwealth mainly to amend its Mutual Recognition Act to correct from the outset some sort of weakness.

The point that I wish to draw to the attention of the Attorney-General particularly is the concern regarding the ways of making a decision to publish and request the Governor-General to make a regulation under section 47

amending the schedules of the Mutual Recognition Act 1992 of the Commonwealth. When the Governor-General is to make a regulation under section 47, the States and Territories have each to publish the terms of the regulation and to request that the regulation be made before it can come into effect. I am led to believe that it is for the designated person to decide to publish the terms of the regulations and request that regulations be made.

Presumably the decision would not be made without some kind of direction, but nowhere in the Acts of the States or Territories does it say how this designated person is to come to a decision whether or not to publish and request that the regulation be made. Further, if this designated person makes a decision to publish and requests the regulation, no provision is made for the proposed regulation to be reviewed by the equivalent of our Legislative Review Committee of which you, Mr Acting President, are a member, for possible disallowance.

In the Victorian debates, which took place some time ago, a member of the Labor Party in Parliament, Dr Coghill, the member for Werribee, expressing his concern, said:

> Once this legislation is passed it will have the potential to erode the regulation review function that Parliament has through the Scrutiny of Acts and Regulations Committee. At the moment, if a regulation is made by the Governor-in-Council, it is limited to jurisdictions in Victoria and the Scrutiny of Acts and Regulations Committee decides whether the legislation should stand or fall. It is not clear that this Parliament has the right to review regulations made in another State which impact on the lives and businesses of people in Victoria. If this Parliament does not have the opportunity for reviewing those regulations. . . how will the regulations be reviewed?

A principle that applies throughout all jurisdictions is that all delegated legislation should be submitted to some kind of scrutiny by a body with powers to recommend that the Parliament disallow the subordinate legislation. As mutual recognition legislation is of a special kind made under section 51(37) of the Australian Constitution, it would appear to be outside the standard practices of the States and Territories for making regulations. Therefore, the Acts of each State and Territory should contain a section showing how this designated person is to come to a decision and how the affirmative decision is to be scrutinised as delegated legislation. I believe that one way to make a decision and to scrutinise the decision is to have it passed through both Houses of Parliament. Parliament would be the directing and scrutinising body. It could, perhaps, be too cumbersome. One objection to this method is that the regulation proposed may be minor and not warrant the time of Parliament. Also, if there is urgency, there could be some unreasonable delay.

Another way that has been put to me, and perhaps a more reasonable way, of having the designated person come to a well-considered decision, which is in turn submitted to scrutiny, is to have a section in the adopting Acts which, in effect, says that the decision to publish and request the Governor-General to make the regulation is to be made by the designated person-in-council and, before the affirmative decision is transmitted to the Commonwealth, it is submitted to a legislative review committee of some kind which would have the power to recommend to Parliament that the decision be disallowed.

If it is decided one way or another not to request the regulation, that should be transmitted to the Commonwealth as a courtesy response. That may or may not need to appear in the legislation, but it could be included for the sake of clarity.

Detailing how a decision is to be made and scrutinised would not require, I believe, an amendment to the Commonwealth Act. By including this suggestion in the adopting legislation, direction can be given to the designated person in making a decision to request the Governor-General to make a regulation, the regulation would be submitted to scrutiny, the designated person would be responsible for transmitting an affirmative or negative decision to the Commonwealth, and this will be accomplished, I am told, without the need to amend the Commonwealth Act.

The second matter concerns amendments to the body of the Commonwealth's Mutual Recognition Act 1992. Amending the Act is not mentioned in the Commonwealth Act. Unlike other Acts of the Commonwealth, which are made under the sole powers of the Commonwealth, the Mutual Recognition Act of the Commonwealth is made under the combined powers of the States, Territories and the Commonwealth. Other Acts of the Commonwealth can be amended on the sole authority of the Commonwealth, but I strongly believe that should not be the case with the Mutual Recognition Act.

If there is to be an amendment to the Mutual Recognition Act of the Commonwealth, that amendment should operate only with the complementary adoption by the States and Territories. That is explicitly provided for in the Acts of the States and Territories, except Victoria, according to the number of papers that are read and come across my desk. Adoption is provided for under clauses 5 and 6 of this Bill. Amendments to the Commonwealth Act must have the approval of the designated person in each and all of the participating jurisdictions.

During the debate in the Northern Territory Legislature, Mr Ede, a member of Parliament, expressed concern that the amendments could conceivably be made simply by gazettal. He goes on to say of amendments being approved by the designated person:

> . . . it is a far more substantial derogation of the powers of this Parliament than what normally occurs in relation to subordinate legislation. . . . At least with subordinate legislation, this Parliament has the power to disallow it. . . . In respect of this legislation, this Legislature does not have that power. All we can do is read about it in the *Gazette*.

What concerned Mr Ede and should concern all participating jurisdictions is that there does not seem to be an opportunity for the Parliaments of the States and Territories to scrutinise proposed amendments to the Commonwealth Act by one process or another.

It is not an objection to having the designated person be the one who finally transmits the decision to accept or reject the amendment. The objection, I believe, is how the decision is made and how it can be adequately scrutinised so that the powers of the States and Territories are properly exercised. One way to overcome the objection, I am sure, is to have legislation adopting the amendments passed through the Parliament of the States and Territories agreeing to the terms of the amending Act of the Commonwealth that the designated person transmits the adoption to the Commonwealth. The Parliament ultimately gives direction to the decision and scrutinises that decision.

Of course, the adopting legislation may not be passed, in which case the designated person should be required to transmit the rejection as a courtesy gesture, as I pointed out earlier. Another way, and probably a better way, would be to have the designated person-in-council come to a decision concerning the amendment. If it is to be adopted the proposed

amendment and the decision to adopt would be submitted to the committee which reviews delegated legislation for possible disallowance. After scrutiny and any process that follows the decision to adopt or not to adopt would be transmitted to the Commonwealth by the designated person.

Since it was seen as necessary that the adopting legislation should say who is to approve amendments to the Commonwealth Act, I believe it should be equally necessary to spell out how the approval or disapproval is to be decided. Whichever way a Commonwealth amendment is to be treated there must be provision for security and possible disallowance.

The Commonwealth Act could operate as it stands as the Act gives the Commonwealth no power to compel acceptance of an amendment by the States and Territories. The States and Territories do have a power of veto in their Acts, simply by one State or Territory rejecting the proposed amendment. It is not necessary, I believe, but it would be providing a better understanding if the Commonwealth Act clearly indicated that amendments to the Act can come into operation only with the approval of and request by all the participating jurisdictions.

There is a problem, however, concerning registration for an occupation. The problem is where there is registration in a second State but no registration for that occupation is required in the State from which the person is transferring. The problem is in the wording of the Commonwealth Act. There is no problem if registration is required in the first State, the State from which the person is transferring, but it is not required in the second State, the State into which the person is going. The person simply settles down and starts practising.

If a registration is required in both States sections 17, 37 and 38 of the Commonwealth Act adequately cover the transfer from the first State to the second State. But where no registration is required in the first State but is required instead in the second State no provision is made in the Commonwealth Act. This problem was raised, as I said earlier, in many papers and correspondence which came across my desk.

Four alternative scenarios of the effect of the problem into the Commonwealth Act as it now stands are contained in the papers but no solution has been offered so far. Details of the problems are:

Section 17 deals with the entitlement to carry on an occupation in the second State where there is in place registration for that occupation in the first State.

Section 37 deals with the first State supplying information of the person's registration in the first State to the registering body in the second State.

Section 38 deals with the confidentiality of information received by the second State.

If there is no registration in the first State, as I earlier indicated, then there is no registering body to supply information under section 37 nor any right to expect the registration into the second State under section 37.

While no solution has been proposed in any of the debates or papers I have received so far the problem could be solved, I believe, if the second State accepted the application as if the person were registered and the responsibility for supplying information under section 37 would devolve upon the applicant. Confidentiality under section 38 would still apply.

This solution would require, of course, an amendment to the Commonwealth Act. That would be, I believe, as has been put to me by many others, the more appropriate way of dealing with the matter. Instead the States and Territories may include a section in their adopting legislation but that would not be a good way just to save an amendment to the Commonwealth Act.

To conclude: I have pointed out the weakness in the combined legislation of the jurisdictions making up the Commonwealth, and those weaknesses are certainly on record and it is for the States, Territories and the Commonwealth to address the issues, as I hope they do, so that the total legislation can be effective at its best.

The Hon. C.J. SUMNER (Attorney-General): I thank honourable members for their contributions. There have been a number of matters raised in the second reading debate which warrant comment and I will respond to those before discussing the form of the legislation before the Parliament.

The Minister of Primary Industries has provided a comprehensive response to the issues raised during debate on this Bill both here and in another place. These issues were in relation to the impact of mutual recognition on farm chemicals, dried fruits, grade standards as sought by the Apple and Pear Growers Association, and quarantine legislation.

While the detail of the Minister's response is available, I will address, specifically, those issues on which a reply was sought. On the matter of progress towards national standards for the Dried Fruits industry, the Minister of Primary Industries has indicated that, despite the significant level already reached by imported dried fruits, the Australian product appears to be holding market share. In the opinion of the Dried Fruits Board of South Australia, this is because much of the imported fruit is suitable only for baking or the confectionary trade. The superior Australian lines still are greatly preferred for sale as whole fruit.

The Dried Fruits Board of South Australia has commissioned a study of all relevant legislation and standards affecting dried fruits. The study will give a broad picture of anomalies, strengths and deficiencies in this area. The Food Standards Code, the (Commonwealth) Imported Food Control Act and the international Codex Standards are the principal documents being scrutinised. The findings of the study project will be discussed with the industry and the resultant views and decisions conveyed to the Minister of Primary Industries.

In a separate development the Chairman of the Consultative Committee to the Dried Fruits Boards of Australia has written to the National Food Authority urging the inclusion of quality standards for dried fruits in the Food Standards Code.

On the matter of grade standards for fresh fruit and vegetables, as suggested by the Apple and Pear Growers Association, I am advised that the Minister of Primary Industries has established a working group to investigate the need for farm produce legislation in this State. Although this group is yet to report, the Minister is aware that it will make a subsidiary recommendation that grower, merchant and consumer representatives develop a renewed case for statutory grade and maturity standards for fresh produce. It is understood that the Minister would not be averse to such a recommendation and, indeed, has said as much to the South Australian Farmers Federation.

The Government would be interested in the idea of industry policing of those standards if they were to be made law, but that is obviously an issue that has not yet been resolved. Despite assurances on the subject of quarantine, reservations continue to be expressed. There has been no

argument from the Government regarding the need to ensure that South Australia's fruit fly legislation is protected. Schedule 2 reference in the Commonwealth Mutual Recognition Act ensures that it is. However, the exemption does not apply to quality, and nor should it.

The Minister of Primary Industries has provided a comprehensive response, which concludes that 'schedule 2 to the Commonwealth Mutual Recognition Act provides for quarantine measures that already have been determined by the States and will continue to be determined as and when required.' There has been some comment made about conveyancing practices between States. The key test for this and other occupations will be the establishment of equivalence. Of course, the occupation will need to be registered in both jurisdictions for mutual recognition to occur.

In relation to dual conveyancing, which is approved in some States only, the South Australian regulations will prevail. This is covered in section 17(2) of the Commonwealth Mutual Recognition Act 1992 and is elaborated on in section 20(5) of the Commonwealth Act. Plumbing has been an issue each time this Bill has been debated. The Premier did not indicate that this was to be addressed 'by merely amending some of the regulations so they would be imposed at the point of sale.' Such regulations are overridden by mutual recognition. What the Premier said, and I quote from his letter to the member for Mitcham of 20 April 1993, was:

> Regulations on the sale of such goods will be able to be circumvented by plumbing goods from other States, or those imported through other States, whilst our local manufacturers will still be required to meet the local standards for these goods. This is clearly not the outcome which we seek to achieve. Changes to the regulations are being drafted in order to overcome this anomaly for the plumbing industry, to make the requirements applicable to all plumbing goods, whether locally manufactured or imported. This will be achieved by applying 'conditions of use' regulations, an approach available through and consistent with the mutual recognition principles.'

A number of other issues were canvassed during recent discussions with representatives of the plumbing industry, when some constructive suggestions were made. These were: the establishment of national standards for plumbing products and the establishment of one central authority responsible for the authorisation of plumbing products on a national basis. Such an authority would need to have a suitable testing facility under its direct control and have staff with practical experience in plumbing work. South Australia is ideally suited to provide the venue for such an authority, and this proposal is being further developed for consideration by the relevant Ministers. There are two points to make in relation to the occupational impact. First, the E&WS Department has provided the following comments:

> The issue of occupational licensing for plumbers, gasfitters and drainers has been addressed by Mr L.J. Hossack in a report commissioned by the Department of Industrial Relations, Canberra, ACT. If the recommendations of the Hossack report are adopted in relation to occupational licensing in the plumbing and gasfitting trades, strictly on the premise that registration can only be justified on trade related activities where public infrastructure must be protected, then that outcome would be acceptable. However, I cannot agree that stormwater drain installers need to be registered in this State, nor can I agree to any move that would increase regulation with respect to the extension of cold water pipes (say to a garden tap) or any other facet of cold water installation and/or maintenance that can presently be done by a householder. There is a need, however, to effectively control the installation and testing of backflow prevention devices and LPG systems. These tasks are not currently regulated in South Australia.

Secondly, the introduction of the Electricians, Plumbers and Gasfitters Licensing Bill is not to change the standards for entry into those occupations, but rather it will establish a separation between the 'infrastructure management and standard setting' roles, and the licensing and discipline functions associated with these occupations. On the matter of food standards, a recent policy review by the National Food Authority concluded that 'aspects of quality criteria relating to grading are more appropriately dealt with by the market and the inclusion of prescriptive grading standards is inappropriate.' The Health Commission has advised that 'meat is subject to separate hygiene legislation and interstate transfer certificates'. I have been informed that meat hygiene arrangements at the slaughterhouse level are currently under review in this State by the Department of Primary Industries. The Minister of Health has provided the following advice regarding health occupations:

> The health occupations in respect of which the Australian Health Ministers conference has determined that mutual recognition should apply are: doctors, nurses, pharmacists, dentists, dental prosthetists, optometrists, physiotherapists, psychologists, chiropractors, osteopaths and podiatrists. In addition, Ministers agree that the principles of mutual recognition be applied to the regulation, in all jurisdictions, of dental therapists and dental hygienists. Ministers have also endorsed recommendations to develop mutual recognition arrangements for medical radiation technologists (that is, diagnostic radiographers, radiation therapists and nuclear medicine technologists). Conferences of regulating authorities have been established to deal with issues such as common entry requirements, assessment of overseas qualifications and any areas of disparity between the jurisdictions. Other bodies, such as the Australian Medical Council, Australian Nursing Council and Australian Dental Council are also playing a part in pursuing mutual recognition.

I wish to set the record straight about the Review of Partially Regulated Occupations (the VEETAC review). In November 1991, Premiers and Chief Ministers meeting in Adelaide expressed concern about the inconsistencies in the treatment of partially regulated occupations across jurisdictions and resolved to remove anomalies at the earliest possible date. They agreed that registration of these professions should be removed unless there is overwhelming evidence for retention. As a matter of policy, they decided that the key criterion for deciding to remove registration requirements for any particular occupation was to be an assurance that self regulation would not pose a risk to public health and safety.

A review was subsequently undertaken by the Vocational Education, Employment and Training Committee (VEETAC) Working Party on Mutual Recognition on behalf of the Ministers of Vocational Education, Employment and Training (MOVEET). South Australia was represented on that working party. The recommendations of the review report are now being considered. Consultation has commenced with the relevant authorities and affected parties, and the outcomes of that consultation process will be taken into account when the Government determines its position in relation to the individual occupations.

In a related exercise, Ministers of Health asked the Australian Health Ministers' Advisory Council to give consideration to the statutory regulation requirements of the partially regulated health occupations. This was done because mutual recognition will also apply to the health occupations, some of which are registered in South Australia. Health Ministers, at their meeting in July 1993, considered a report from this council and asked that further consideration be given to this matter. The report from VEETAC cannot be made available at this stage, as it is still the subject of consideration by Cabinet. However, irrespective of the

position determined by Government, any change to the *status quo* must be the subject of detailed consultation before amendment to the relevant legislation by the Parliament.

There have been a number of comments about the impact of mutual recognition on the teaching profession. No-one could argue with the position of the Australian Education Union regarding reasons for ensuring 'that teachers are well trained, well qualified and are generally fit and proper'. Indeed, the Government has already expressed its commitment to maintaining registration for teachers in this State until mutually acceptable arrangements can be established at the national level.

The Minister has also said, in a press release of 6 June 1993, that 'the National Teaching Council will make mutual recognition and adoption of consistent standards easier for the teaching profession.' Until developments at the national level negate the application of mutual recognition principles for the teaching profession, I can confirm for the Hon. Mr Lucas that the impact on this profession remains the same as I indicated in April, that is, a teacher coming from a State or Territory that has no statutory registration requirement would not be entitled to automatic registration in South Australia.

At present, Queensland is the only other State with statutory teacher registration, and South Australia already has a mutual recognition agreement in operation. Therefore, the passage of this Bill will have no effect on existing arrangements, nor will it influence the work towards the establishment of a national teaching profession as envisaged by the Australian Teaching Council.

Consumer product safety is one area where considerable work is being done to harmonise standards across Australia, where this is seen to be necessary. I am advised that a special working party of the Commonwealth-State Consumer Products Advisory Committee has been working for some time on a uniform set of safety and information standards which the Commonwealth and States have agreed to apply throughout Australia. South Australia's comprehensive set of standards is being used as the basis for the new uniform regulations which will apply throughout the nation.

A number of national safety or information labelling standards, and national bans, have already been agreed. These include, for example, child carrying seats for bicycles, and toys and novelties containing hazardous liquids. Finally, I address the form of the legislation, in particular, some of the comments made by Parliamentary Counsel about the Commonwealth legislation.

The point to be stressed here is that mutual recognition is a cooperative scheme between the States and Territories; with agreement reached between the jurisdictions as to the intent and purpose of the scheme. The next step was reflecting that intent in legislation. As with other cooperative schemes, one jurisdiction was given responsibility for drafting. In the case of mutual recognition this was New South Wales. However, all States and Territories, including South Australia, were involved in the drafting. I acknowledge that there has been some comment about the way the Commonwealth Act is drafted, but the issue is whether the intent of the scheme is achieved through the Commonwealth Act, as currently drafted.

The Government considers that it is, as do other States and Territories which have proceeded with the implementation of the mutual recognition scheme as originally proposed. If, however, it is shown that the intent is not being achieved, and this is the result of drafting inadequacies, then there is a mechanism available to amend the Commonwealth Act. The Shadow Attorney-General, on 25 August 1993, cited a number of areas of concern raised by Parliamentary Counsel. In relation to statutory warranties, many of the warranties referred to in South Australian laws (such as the Sale of Goods Act, Consumer Transactions Act and Manufacturer's Warranties Act) appear to be warranties as to the quality of goods being sold. They are not 'requirements relating to sale'; that is, they are not conditions as to quality which must be satisfied before the goods can be sold. Therefore, they would not be affected by the mutual recognition principle.

It is irrelevant whether business franchise licence fees are higher than are necessary to cover administrative costs and are levied for revenue raising purposes: what is significant is whether they are discriminatory against interstate goods. If not, such fees will not be affected by mutual recognition in any way. In relation to taxicab licences, the distinction must be drawn between the licence which provides an individual entry into the occupation, and the licence (licence plate for taxicabs) which grants the right of a vehicle to carry passengers for hire. This latter licence is not subject to mutual recognition. I could elaborate further in reference to the issues raised, but instead will stress again that the Commonwealth Act was the subject of detailed consideration, and public comment.

All States and Territories contributed to the drafting, including South Australia. The Hon. Mr Gilfillan has raised some points and I will respond to those. Uniformity is not essential in all areas and is certainly not the aim of mutual recognition, as suggested by the Hon. Mr Gilfillan. The aim of mutual recognition is to overcome inefficiencies in those areas of economy where uniformity is seen as important. Amendments to the Commonwealth Act will not be 'imposed', but can only occur with the unanimous agreement of all participating States and Territories. It is important to recognise that. That consent would be provided by the Governor through the Government of the day, which has been elected to govern. The Opposition has acknowledged that its previous approach to this Bill would have caused significant disadvantage to this State, and the Premier's statement of 30 April 1993 outlined that fact.

The Bill is not a 'centralist Bill' which suits the Federal Government, but rather a cooperative scheme between States and Territories, in the interests of the nation as a whole and which uses the Commonwealth as the vehicle for its operation. There are real advantages. The list is innumerable, but I will give two. For example, first, manufacturers will no longer have to spend time (and therefore money) ensuring that their products comply with the standards applicable in each of the States where they wish to market their goods. Secondly, practitioners will no longer lose opportunities in their chosen occupation or profession through the vagaries of particular licensing regimes in the different States.

The reality is that the lowest common denominator concerns are just rhetoric, as differences between standards are minor, as a rule, and where significant differences have been identified these are being addressed through a national approach—for example, as already outlined in relation to consumer product safety matters that I have referred to. States will still have the capacity under the provisions of the Commonwealth Act to regulate for the use of particular goods, and to require practitioners to comply with 'the manner of carrying on an occupation'.

Mr President, I am pleased to see that the Opposition now is supporting the Bill. I am only displeased about the fact that it did not do it on the last occasion so we have had to go

through this process again, and really it was unnecessary. It is clearly a Bill in the interests of the people of Australia. All I can say is that when I have made statements about this Bill since it was rejected by the Parliament a few months ago I have had overwhelming support from people to whom I have spoken about it in the community. A simple argument, which I find attracts South Australians, as it ought, and I would be surprised if it did not, is simply this: that if the European Community of some 350 million people and 12 different States and cultures and languages can agree to harmonise their regulatory regimes and create a freer market for goods within that community, then surely 17 million Australians, South Australians comprising 1.5 million of that group, can do the same through the processes of mutual—

The Hon. I. Gilfillan: Have they got a Mutual Recognition Act?

The Hon. C.J. SUMNER: Whether they have a mutual recognition in the same terms as this is not the point. What they have in place are elaborate mechanisms for harmonising the rules relating to the sale of goods, standards etc.

The Hon. K.T. Griffin: English lawyers cannot practice in France.

The Hon. C.J. SUMNER: Not yet they can't because they have different legal systems, but we have the same legal system. That is the fact of the matter. We do not have a different legal system in Queensland compared to South Australia. There is a different legal system in Britain compared to France. But I do not have much doubt that there will be mutual recognition of some kind of occupations even of that kind developed within the European Community over time.

The Hon. I. Gilfillan: Currencies?

The Hon. C.J. SUMNER: I am not going into currencies. That is a bigger—

The Hon. I. Gilfillan interjecting:

The Hon. C.J. SUMNER: Sure, and you are going into irrelevant matters. You are going into lawyers; you are going into currencies. I am saying that the European Community of 350 million people is making great strides on harmonising the regulations within that community, to try to ensure that it has a true market for goods and labour within that economic grouping. I make the point, which is valid, that surely if they can do it then we can take steps to do it more efficiently and effectively in Australia, and that is what mutual recognition is all about. The other thing that I would emphasise about it is that it was agreed to initially by Governments of different political persuasions—at the Federal level, the Hawke Labor Government, and in New South Wales, the Greiner Liberal Government, so it was not a political or centralist issue: it was an issue of trying to ensure that some of the petty differences that exist within our Australian market were removed, and I said last time that I thought it was a significant piece of legislation, and I still believe that it is a significant piece of legislation.

I also believe that it is legislation which is recognised by the Australian community and the South Australian community as significant, and the people to whom I have spoken all agree that the notion of South Australia being a little island of 1.5 million people in a country of 17.5 million people, in a world which is becoming increasingly economically integrated, and our standing aside from those processes is not something which I find that South Australians support. They recognise that we have to be part of Australia; we have to be part of a world economic community. At least the Opposition has come to its senses, but I find the head-in-the-sand attitude of the Democrats in relation to this matter quite astonishing.

The Hon. Mr Gilfillan has put his arguments on the basis of the interests of South Australians. Rest assured that that is my interest as well: the interest of South Australians and the interest of Australians, and this Bill I believe advances those interests significantly. The Hon. Mr Feleppa made one point that perhaps needs correcting—and I did refer to it in my reply before in relation to teachers—that if there is no regulation or no licensing of an occupation in another State, there cannot be mutual recognition of that occupation in a State where there is a licensing or registration system.

So, teachers from New South Wales, where there is no registration system, cannot come to South Australia and be recognised. They have to go through our local registration system, and the same applies to any other occupations that are not registered in some States. What will be recognised in South Australia are the occupations of people from those States where there is in place a system of registration or licensing.

Bill read a second time.

In Committee.

Clause 1 passed.

Clause 2—'Commencement.'

The Hon. K.T. GRIFFIN: Presuming that the Bill is going to be passed in some form, can the Attorney indicate when the Act is likely to be proclaimed to come into operation?

The Hon. C.J. SUMNER: The advice I have is that we would want to proclaim it as soon as possible. I understand that Consumer Affairs is putting in place some new computer system, which means it is trying to suggest that 1 December might be the proclamation date. Certainly, I will be suggesting that it be proclaimed as soon as possible.

The Hon. R.I. LUCAS: Will the Attorney clarify the matter I raised in the second reading debate? Where there is a partially regulated profession throughout Australia such as teaching or speech pathology, where one or two States register or license the profession but the other States do not, what is the position? One of the agreements the Government had at the end of last year was that with partially regulated professions Governments would move towards a position of total deregulation. What is the South Australian Government's attitude towards what I understood to be an agreement at Government to Government level about this issue? I am particularly interested in the education profession and whether the Government feels bound by the decision which would lead to total deregulation of the teaching profession.

The Hon. C.J. SUMNER: I have answered this question. In brief, there is a review going on of partially regulated occupations. The review has set up as a matter of policy certain criteria for deciding whether it is reasonable to remove registration requirements. There needs to be an assurance that deregulation would not pose a risk to public health and safety.

The Hon. R.I. Lucas: That doesn't cover teaching.

The Hon. C.J. SUMNER: No, this has nothing to do with teachers. There is a feeling that there may be some partially regulated occupations where there can be complete deregulation across Australia. Whether that happens or not will be as a result of decisions taken at the national level by Ministers meeting on the particular occupation, making a decision and then that being accepted in each of the jurisdictions through the individual States. It will have to come back to the Parliaments. In a sense, while this is an exercise that is

perhaps related to mutual recognition, it is not an exercise that is affected by the mutual recognition legislation.

It is a process of involving all Governments around Australia and looking at some occupations that have been partially regulated. If they can agree amongst themselves they can say that the partially regulated occupation does not need to be regulated in the future. They can say that there is no public benefit in its being regulated in the future and that there is no risk to public health or safety if there is deregulation. They can say, 'Therefore, we will recommend to the various jurisdictions around Australia that that occupation be partially deregulated.' It would then go back to each State to enable that to occur, but that does not affect teachers, who are not partially regulated.

The Hon. R.I. Lucas: Yes, they are. But what would not apply to teachers would be the public health and safety aspect—the criteria that you were talking about.

The Hon. C.J. SUMNER: The Review of Partially Regulated Occupations, to which I referred earlier and which is looking at partially regulated occupations using the processes that I have described, is not considering teachers. What I understand is happening is that through the Education Ministers Council they are looking at what should occur with the teaching profession.

The issue before the National Teaching Council and the Education Ministers Council is whether or not there should be a national teaching profession, however that is organised. Until decisions on that are taken, the situation will be that only teachers from Queensland will get automatic registration in South Australia.

That may all be overtaken by decisions made on an Australia-wide basis to do something—whatever that is—about creating an Australian teaching profession with national standards, etc. Until that occurs, knowing the way things go, it may take some time and the current situation in South Australia will remain: irrespective of mutual recognition, Queensland teachers are recognised in South Australia, anyway. There is already a bilateral agreement on that, so they are not affected by mutual recognition.

The Hon. R.I. LUCAS: Is it fair to say, therefore, that the South Australian Government has not yet ruled out the possibility of deregulation of the teaching profession? Deregulation could occur if the ministerial council or the National Teaching Council agreed that the teaching profession ought to be deregulated and if the South Australian Government agreed to go down that path.

The Hon. C.J. SUMNER: I understand that the Minister's policy—and I cannot answer on her behalf without checking—is to maintain some system of registration of teachers.

The Hon. R.I. Lucas: So, she is opposing deregulation?

The Hon. C.J. SUMNER: I think her position is to oppose total deregulation of the teaching profession. Presumably, she would argue in national forums that, if we are going to establish a national teaching profession, it has to be established in accordance with definite criteria as to qualifications, etc.

Whether in the long run that will involve a licensing system or a registration system is something that would have to be looked at, but she certainly does not support a system of total deregulation of the teaching profession; she supports standards and at the moment the registration system in South Australia and, if there is to be a national teaching profession, she would support that being created by reference to some national standards which people know about and which will in effect qualify people to be teachers.

Clause passed.

Clause 3—'Interpretation.'

The Hon. K.T. GRIFFIN: I move:

Page 1, lines 20 to 29—Leave out the definition of 'participating jurisdiction'.

I will make a few observations about where the amendments we have on file will take us in the context in which they are made. When the matter was last before us what we sought to do was apply the Commonwealth legislation as South Australian law with some amendments. We came unstuck on that, largely because of the definition of 'participating jurisdiction' in the Commonwealth Act which would not then have given our law automatic recognition as part of the scheme of mutual recognition. We did come unstuck on that. We had some concerns about the Commonwealth Act and the way it would operate, the lack of clarity in some parts, and the difficulties it may create in terms of registration in respect of occupations and in respect of some of those provisions relating to goods and services. However, we did not oppose any concept of mutual recognition. The very fact that we were proposing to pick this up as State law and apply it as State law rather than merely adopting Commonwealth law should indicate clearly that we were not opposing the concept of mutual recognition; we were opposing the way in which it was done and raising concerns about the Commonwealth Act.

We still have those concerns about the Commonwealth Act and, if the South Australian Bill should pass with amendments, the way in which the scheme operates in so far as it relates to South Australia will have to be closely monitored. If there are defects in the way in which the Commonwealth law is applied they will have to be addressed, and certainly in Government we would undertake to ensure that that was done and that the whole scheme would be closely monitored for any disadvantageous effects upon South Australia.

What we are proposing in respect of the scheme now is that we follow the Victorian basic position, that is, we go along with the adoption of the Commonwealth Act, that we do not refer power (we do not accept that it is necessary to refer any power), and that we put a fixed time period of five years on the operation of the scheme, and that must necessarily mean that it will up come up for review before the expiration of the term. However, I expect that it will be subject to constant review and monitoring, anyway.

We do not believe that the Governor ought to be the designated person to agree to amendments either to the schedule by way of regulation or to the Commonwealth Act. We believe that those matters ought to be addressed by the Parliament which has presumably now will adopt the Commonwealth Act, and changes to it ought to be considered by the Parliament.

So, they are in essence the amendments which I will move. Some amendments reflect the substantive issue, others are consequential. I have therefore moved the first amendment to clause 3, which deletes the definition of 'participating jurisdiction'. That is consequential upon what we are trying to do but, because of the order in which it has to be dealt with, we have no option but to address that issue first of all. If we adopt the Commonwealth Act, as my amendments (if accepted) propose we should, the definition of 'participating

jurisdiction' is covered by the Commonwealth Act; it is in identical terms with the definition that is in our Bill.

The Hon. I. GILFILLAN: I would like to make a few general comments so that it does virtually abbreviate the debate, because members of the Committee will know that the Democrats voted against the second reading and we are opposed to the measure but are prepared to support the amendments, believing that they marginally improve the workability of the Bill and also retain more control in the hands of the South Australian Parliament. So, having said that, I also want to make a couple of comments to the Committee in relation to the situation as I believe we find it. It is important and I think significant with the possibility of a change of Government when this legislation is in effect that the Deputy Leader in other place in speaking to this Bill spelt out in very precise detail many of the concerns which were raised in earlier debate and re-emphasised them. They are there for anyone to see: the printing industry, the Farmers Federation, the Institute of Conveyancers and the Engineering Employers Association. At some length the Deputy Leader went through a very critical analysis and criticism of the legislation. It certainly leaves me with the firm conviction that within the Liberal Party in South Australia there is still profound concern about this measure, and I therefore find it likely to be an uncomfortable conclusion that the Party came to. The last comment made by the Deputy Leader in other place to this Bill was:

> On balance, and because of further representations, the Opposition is willing to reconsider this Bill. We are not content with referring powers to the Commonwealth for the reasons I have already stated, but certainly we are prepared, despite the problems, to accept the Commonwealth Act.

It is a very grudging acceptance, and, although it is not my place here today to probe, I believe that many of those whom I regard as my parliamentary colleagues share to quite a large extent the misgivings that we as the Democrats have continued to portray as the effects of this legislation.

The pressures on the Opposition were substantial from all sources, and I would like to quote a couple of paragraphs from the *Financial Review* of July 1993, partly to point out what sort of barrage the media put up to pressure the Opposition to change its view. I quote as follows:

> Mr Lindsay Thompson, the Chairman of the SA Chamber of Commerce and Industry, said he would be approaching the Liberal Party soon 'and making it clear in no uncertain terms how wrong they are. I think the Liberals were poorly advised. It sets up another barrier or impediment for business. Why should we be any different than any other State?', he said. . . .If manufacturers in the participating States meet the product standards of their own State, they will be able to trade automatically throughout Australia except in SA, where they would have to ensure they met the local standard.

Those who are listening to this contribution will recognise that it is implying that the local standard is a bother, a nuisance; it has been evolved by people who are irresponsible and do not have the interests of South Australia at heart. The article further states:

> The President of the Australian Institute of Conveyancers, Mr Jon Lovejoy, (tick) said the Liberals were 'completely missing the point. The issue isn't about having people with lower standards come and work in Adelaide; it is about allowing national groups to set national competency standards for themselves and letting Governments get out of their way.'

That is a position with which I have consistently agreed. There is no reason why national competency standards should not be set by the bodies which are motivated to do so and which from time to time may even be pressured to do so. One important reflection is that this Bill is argued as being a weapon to pressure national organisations to avoid its implications of the lowest common denominator and to get their acts into gear and create and establish national standards.

In that context, I should like to quote from the *Financial Review* of 8 July an article entitled, 'The legal revolution', by Chris Merritt. It relates principally to the legal profession. It says:

> Indeed, mutual recognition confronts all professions with a choice. Either they formulate a national uniform standard, or the legislation will force them to recognise and work alongside colleagues from interstate who may well have inferior qualifications.

As is seen here, there will be pressure for the lowest common denominator. Further on, it states:

> It means goods and services that meet the quality standards of one State can lawfully be sold in any other—regardless of what the local standards say. . . .
>
> The Law Council of Australia, the lawyers' peak professional body, was quick to see that incentive. The alternative to a uniform standard was simply unacceptable. Peter Levy, the Secretary-General of the Law Council, was concerned about the potential for the least rigorous admission standard to eventually drag down the others as lawyers moved more freely between the jurisdictions.
>
> 'Because of mutual recognition, if we didn't have uniform standards, we risked having the lowest common denominator,' said Levy.

Exactly. That is the risk with this Bill. It further states:

> But the Law Society sees its actions as a rational response to the policy inherent in the Mutual Recognition Acts. Mark Richardson, Deputy Chief Executive of the society, says 'the easiest solution would have been to simply adopt the lowest standard. But the Law Council has chosen to adopt the highest standards' and some States will naturally have difficulty achieving them.

The article goes on to point out that that may be restrictive, so there will be less competition in the legal profession. I shall not comment on that, but it is an interesting observation.

I think it is clear that this Bill is fraught with many traps and there will be many complications. One which comes up clearly is that the Minister of Environment and Land Management (Mr Mayes) has stated that there will be a deposit on plastic containers. That was a very convenient and political reaction to school children who have been most concerned about a change of containers for milk to a non-returnable, non-recyclable plastic container. I believe that that decision will be ineffective.

The Hon. C.J. Sumner: Why?

The Hon. I. GILFILLAN: Because non-returnable, non-recyclable plastic containers will be brought in from interstate. There will be no reliable security for legislation in that context to be put into this State.

The Hon. C.J. Sumner interjecting:

The Hon. I. GILFILLAN: That is assuming that this particular form of beverage container fits within that Act and is not challenged. We do not have any assurance of that.

The Hon. C.J. Sumner: What other Act is he going to do it under?

The Hon. I. GILFILLAN: He can determine that there has to be some form of condition applied on the sale, such as a deposit. I do not know how he will do it. He has the obligation to spell it out.

The Hon. C.J. Sumner: He has to use an Act of Parliament to do it.

The Hon. I. GILFILLAN: For beverage containers. Mr. Acting President, the debate is probably not very easy to follow with the interchange that we are having across the Chamber. I am far from convinced that, because the Minister gave this undertaking, the selling of milk in South Australia

in plastic containers will automatically have some form of recyclable obligation when marketers from interstate will be trying to get their product into South Australia without that restriction. I am not convinced that this Bill gives us that guarantee.

The Attorney-General, in his concluding remarks, used the phrase, 'the vagaries of licensing authorities'. I think that is an insult and it denigrates what has been part of the structure set up by the various States and Territories to control activities, licensing and registration in their jurisdictions. It is unfortunate to reflect that those bodies are unable to act and make determinations competently in the best interests of the people of those States and Territories.

I repeat, although we are opposed to the measure, it is our intention to support the amendments moved by the Hon. Trevor Griffin. But that does not in any way indicate our support for the measure either in its original state as introduced by the Government or in its amended state, although I believe the amended state will be marginally better.

The Hon. C.J. SUMNER: First, I should like to respond to the Hon. Mr Gilfillan's point relating to beverage containers. The Beverage Container Act is excluded from the operation of mutual recognition principles. That was one issue that the South Australian Government was concerned about. We made it quite clear that that Act was to be excluded and that our deposit legislation was to be excluded from the operation of mutual recognition, and that has been recognised.

The Hon. I. Gilfillan interjecting:

The Hon. C.J. SUMNER: It is a permanent exemption under the Commonwealth Act. There would have to be an agreement by South Australia to include it for the situation to change. I do not think that there are any causes for concern on that score, because the South Australian Government made it clear that it did not want its beverage container legislation affected.

The Opposition's package of amendments—and I will speak to all of them at this stage—will put the Bill in the same form as the Bill passed by the Victorian Parliament. When this matter was before us on an earlier occasion, I indicated that, in terms of amendment, the Government was prepared to go as far as the Victorian situation. That meant that any changes to the Commonwealth Act would have to be approved by the State Parliament rather than by the Governor-in-Council and then passed by the Commonwealth Parliament. Furthermore, the Victorian Act contains a five-year sunset clause. The Government is not happy with that position, although we said it was our bottom line.

We would prefer the Bill to pass in the form in which it is now before the Council and as introduced by the Government. That is what the majority of States have agreed to. However, I do have an amendment on file which would maintain the basic scheme as agreed to by other States, except Victoria, namely that amendment to the legislation would occur through the Commonwealth Parliament with the unanimous consent of the participating States, but my amendment would place a five-year sunset clause on our State Bill.

We are prepared to go part of the way to meet the Opposition's position with the five-year sunset clause but we would prefer to maintain the integrity of the Bill as introduced by the Government and I have an amendment on file to give effect to that. However, I recognise that the Hon. Mr Gilfillan is supporting the Hon. Mr Griffin and therefore I will not divide in relation to the matter. I assume that the Premier, when he has considered the matter, will probably be prepared to accept this bottom line—although I do not want to pre-empt his decision on it, he may not—but it is at least a much better position than the amendments which the Opposition moved on previous occasions and which really undermined the basic thrust of the legislation.

Amendment carried.

The Hon. K.T. GRIFFIN: I move:

Page 2, lines 1 to 3—Leave out subclause (2).

I have already spoken to the general thrust of the amendment.

The Hon. I. GILFILLAN: I do not want to speak specifically to this but I think in fairness to the Attorney and his adviser I acknowledge that the beverage container is in schedule 2 and therefore does have a permanent exemption, provided that any amendment does not substantially change—I cannot remember the exact words. So that I would acknowledge the point made but I would still express some concern that legal advice intent on overturning the effect of plastic container recycling may still be uncertain on that window which says that if the amendment is moving into new territory it may not be accepted.

I will not take up time any longer but I indicate that I acknowledge it is in schedule 2 but I do not remain totally convinced that intent legal attack on it may not be successful.

Amendment carried; clause as amended passed.

Clause 4—'Adoption of Commonwealth Act.'

The Hon. K.T. GRIFFIN: I move:

Page 2, lines 8 to 17—Leave out subclauses (2), (3) and (4) and substitute new subclause as follows:

(2) The adoption under this Act has effect for a period commencing on the day on which this Act commences (but not so as to give effect to any adopted provision before that provision commences under section 2 of the Commonwealth Act) and ending on the fifth anniversary of—

(a) the day fixed under section 2 of the Commonwealth Act; or

(b) if more than one day is fixed under that section—the earlier or earliest of those days.

The Attorney-General offered his position as in a sense a halfway or partial move towards the position which the Opposition is proposing as a result of the amendments. But I just indicate that we would not be prepared to go only that far but prefer to go all the way in terms of agreement with the Victorian concept. I would hope that my amendments are passed, and that the Premier will be persuaded to agree to the Bill, as amended by the Legislative Council, to put the debate on the issue to rest at least until after the election, whenever that is—only to this extent, that quite obviously we will have to keep the matter under review to deal with the adverse consequences of it, if there are any, which are thrown up as the scheme is implemented in South Australia.

The Hon. C.J. SUMNER: The Government is prepared to compromise by agreeing to the five-year sunset clause, which is the effect of the Hon. Mr Griffin's amendment as well. However, we do oppose the other amendments. I have indicated that previously although I have not divided on it.

Amendment carried; clause as amended passed.

Clause 5—'Reference of power to amend the Commonwealth Act.'

The Hon. K.T. GRIFFIN: I indicate opposition to clause 5.

Clause negatived.

Clause 6—'Approval of amendments.'

The Hon. K.T. GRIFFIN: Again I indicate opposition to clause 6.

Clause negatived.

Clause 7 passed.

Clause 8—'Review of scheme.'

The Hon. K.T. GRIFFIN: I have indicated opposition to this clause, which relates to the review of the scheme.

Clause negatived.

New clause 9—'Expiry of Act.'

The Hon. K.T. GRIFFIN: I move:

Page 3, after line 11—Insert new clause as follows:

9. This Act expires at the end of the period for which the Commonwealth Act is adopted under section 4.

New clause inserted

Long title.

The Hon. K.T. GRIFFIN: I move:

Page 1, lines 6 to 10—Leave out all words in these lines and substitute new long title as follows:

An Act to enable the recognition of regulatory standards throughout Australia regarding goods and occupations, and for that purpose, to adopt the Mutual Recognition Act 1992 of the Commonwealth (and any amendments made to it before this Act commences) as a law of the State.

Amendment carried; long title as amended passed.

Bill read a third time and passed.

SOUTHERN POWER AND WATER BILL

Adjourned debate on second reading.

(Continued from 8 September. Page 381.)

The Hon. L.H. DAVIS: When the Prime Minister (Hon. Paul Keating) introduced his now infamous tax cuts he assured a very suspecting voting public that it had nothing to fear; that this was not a mere promise, these tax cuts were L-A-W, law. If one can take that aside from the Prime Minister and translate it into this Bill, which proposes to merge two major public utilities in South Australia, the Electricity Trust of South Australia and the E&WS Department, the word I can think of is J-O-K-E, joke. Because if ever there is a piece of legislation that has been put together in a shoddy and unprofessional fashion without due consideration of the implications of the merger, the workers interests or the taxpayers of South Australia, surely it is this legislation now before us.

Let me give a very small example which to me encapsulates the fiasco that surrounds this legislation. I learned last week that Ernst & Young had been asked by one of the merging utilities to provide some figures based on the information given to them. They had provided a consultant's report. My secretary rang Ernst & Young and asked whether I could obtain a copy of it. Quite properly, Ernst & Young said that it would have to consult with the client, gave the name of the client and suggested a person to contact at the E&WS Department at 77 Grenfell Street, Adelaide.

My secretary then rang that person and asked for a copy. The person said,'Look, I am flat out at the moment: could you send someone down?' My secretary said 'Yes, we will certainly send someone down.' We sent someone down to reception at the 11th floor at 77 Grenfell Street. The Messenger from Parliament House went down to collect that as a matter of urgency to assist me in my preparation for this debate. When he went to pick it up no-one at reception knew anything about it. He came back empty handed, so the secretary rang again and spoke to a person who said he would pass on the message and, much later that afternoon, a woman rang to say 'We are sorry; we did not know anything.'

There was not any real apology about it, but she said 'It would be here now if you want to come and collect it.' My secretary—remembering that she serves four members of Parliament with two hands—said 'Look, we made our effort. Would you like to deliver it down here?' It did not arrive that afternoon, and some time during Question Time the next day one of the Messengers from the Legislative Council arrived at my secretary's office and said 'Could this possibly belong to you?' She looked at it and said 'I am not sure.' It was opened and, indeed, there was the missing report.

Although it had been specifically asked on more than one occasion to be addressed to me and/or her, it was just addressed to the Legislative Council. You puts your money up and takes your chances in this game. So, it eventually arrived a day and a half late. You do not need a merger to get effectiveness and efficiency from an operation, and if that is the best that the E&WS Department and ETSA can do with such a simple thing, it is a bit of a worry.

But that is trivial compared with the worries that I have with this legislation, which seeks to merge two organisations with total revenue in the year just ended of nearly $1.25 billion; with total expenditure of nearly $1.1 billion; with the Electricity Trust, allowing for abnormal items, generating a surplus of nearly $200 million and the E&WS Department, after taking into account abnormal losses, a loss of the order of $47 million. Two mammoth, gargantuan organisations which together, at the end of June 1992, had 7 800 people in their work force. We are told that that number has been reduced to of the order of 7 000.

The Electricity Trust, with $1.55 billion in assets, and the E&WS Department, with $1.7 billion in assets, have aggregate net assets of $3.25 billion, with no capital structure, and debt funding for the Electricity Trust. This is a big merger, and it was not done after due consideration. It was done in a rush. This Parliament, which is empowered to pass this legislation and pass judgment on it, is given insufficient information. Let me just tell the Government how it works in the real world. If this were a merger taking place in the private sector between two very large listed public companies on the Stock Exchange, because that is what they would be, you would have had an independent report examining all aspects of the merger.

You would have had the most recent financial information available for both those bodies, and that certainly did not occur, not until yesterday when the Auditor-General's Report at least provided the financial information up to 30 June 1993. And this Government pretends to be professional! The Attorney-General, who sits here parading as the Minister of Public Sector Reform, is presumably claiming that this Government, in its dying days, is getting its act together. This legislation would indicate that nothing could be further from the truth. If ever there is an example to show that this Government is out of control, has lost the plot, does not know how the real world operates, it is surely this legislation, as I will demonstrate in the next 30 minutes.

Unlike the Government, I have spoken to people around Australia who have familiarity with water supply and distribution as well as electricity generation, transmission, distribution and marketing. This Government has been palpably dishonest in the presentation of the information surrounding this merger, not only in the second reading, which is manifestly inadequate in the information that it does not provide, but also in the transparently thin information which has been made available in an undated, unsigned merger document put together hastily, apparently, over a weekend by some senior executives of the Electricity Trust

and E&WS. They have not asked the right questions and not surprisingly we do not have the right answers.

Let me just apprise the Attorney-General as the Minister for Public Sector Reform of how Governments can do it properly if they really want to. I am holding a document that has actually done what this Government has not done. It has examined a situation and has reported on it very thoroughly. It is a document which this Government has not yet seen, but I will tell you what it is: it is the Carnegie report, which does not seek to do as this Government does; to amalgamate two large organisations, which the Auditor-General in his annual report just released yesterday has caned in fairly severe fashion for various aspects of their administration and financial management. This document actually recommends that two major organisations brought together not so many years ago should be broken apart, should be separated in their functions.

This document, Mr Attorney, is the Carnegie report—'The Energy Challenge for the Twenty-first Century', a report from the Energy Board of Review for the Western Australian Government headed up by Sir Roderick Carnegie as Chairman. What that Government sought to do, I think very properly, was to examine the State Energy Commission of Western Australia, which held an umbrella over both the gas and electricity functions, the generation of electricity, production of gas, the distribution and transmission of energy in Western Australia, and recommended that the SEC of WA be broken up, and that electricity and gas be separated out. It went further than that. It argued that, in line with world best practice and trends internationally, the electricity generation, transmission and distribution should be separated.

So the State to the west of us is going that way. It might come as a surprise to learn that, indeed, the Federal Government and other Governments around Australia are moving also in that direction. Victoria is restructuring its Electricity Commission into three separate business units, and the Victorian Government is seeking to prevent Victorian customers from dealing directly with generators in other States. Quite a separate direction is being pursued not only in Australia but around the world. We are swimming against the tide, but of course this Government has been doing that for about 11 years, so I guess it comes as no surprise.

Let me just explain to the Council what 'The Energy Challenge for the Twenty-first Century' sought to do. It looked at the need for internationally competitive energy prices, being the essential ingredient in attracting new developments to Western Australia and thus creating new value-added jobs. In reaching its conclusion, the board sought to introduce competition as the mechanism for achieving lower energy prices without risking reliability of supply. Certainly there is no hint of any consideration given to that aspect in South Australia, by making electricity part of a super-utility with water; no hint of increasing competition.

Of course, effectively you are making it even harder to reverse a decision in the future and move in the direction in which the other States of Australia are moving and in which other countries of the world are moving. What a farce it is, that we have had two reviews of the Electricity Trust in the last three years and neither of them recommended a merger with E&WS, until of course someone woke up in the middle of the night and thought, 'The Premier's Economic Statement in April is a bit thin, we had better pad it out. Let's have a new idea. I know: a merger of ETSA and E&WS.' That is about what happened: that is the truth. The Attorney-General knows the truth. It is very close to that. Because in 1991 there was a very detailed Government Management Business Operation Review sub-board on the Electricity Trust. It examined a strategic business plan. It examined the Electricity Trust, particularly the financial viability of ETSA: not work practices, but the financial viability of ETSA.

It made a number of recommendations about tariff reductions, labour cost reductions and information technology and accepted that there were some difficulties in that area. But there was never any suggestion that the Electricity Trust should merge with another organisation. Ironically, in fact, the consultant DMR Group Australia, which was employed in December 1990 to assist ETSA in developing an information technology plan recommended to ETSA—and this should be engraved on the Government's heart—that it should reduce the size of all projects to a smaller, more manageable limit, to identify clear business milestones for its projects and to focus on business rather than technical tasks. We have here a Government labouring in exactly the opposite direction: making things bigger rather than smaller. In addition, through GARG there was no mention of a proposed merger between ETSA and E&WS in the GARG review period through 1991-92. So, the merger just came from nowhere; it came from left field which is where the Government has been in recent years.

So, we have a Government which is wrong, wrong, wrong in this important matter. Instead of accepting what the world is increasingly accepting: that small is beautiful in respect of issues like this, it is going in the opposite direction becoming bigger and bigger. It its seeking to set up structures that become less accountable rather than more accountable, where it is more difficult to allocate responsibility properly and where it is going to become even more difficult to properly assess the real cost for either electricity or water. When other States are creating greater efficiency through restructuring very important areas of their State, we are harbouring inefficiency. We are creating a recipe for hiding inefficiency. The trend in all States and countries is to break up big lumps, big public utilities, monopolies; to break down those monopolies. This Government has not given any examples that are sustainable to argue its case for the merger of ETSA and E&WS.

Of course, by splitting up the generation and distribution of electricity, which was recommended in the Carnegie report in Western Australia, it enables Governments to have a sharper focus on costs. It means that there will be increases in efficiency.

We have an extraordinary situation where South Australia will be increasingly buying electricity from other States because they generate electricity more cheaply. We are wrapping up electricity and water—two disparate products—in a desperate attempt to justify some savings for a dying Government. That is what this measure is all about. There is no economic logic to it. No-one can pretend that. Let us do away with the nonsense surrounding this legislation. We will not be able to crunch the numbers.

We only have to look to New Zealand to see the success that they have had in localising water supply. Rather than looking at the whole country, in New Zealand they look at water in catchment and drainage basins. That is the trend in water just as it is in electricity.

Savings can be achieved without mergers, and this is something that the Government has not addressed. Many of the savings that are pumped up as savings by a desperate Government in its second reading and merger document are not merger savings. These are savings that could occur,

anyway. For instance, savings through meter readings could be achieved by sending a pulse down the line to the meter. It would need better meters being installed, but that must be a good idea, irrespective of whether there is a merger. That is something positive that can be done. Surely it would be better for us to have spent money upgrading meters so that we can send a pulse down the line to read the meters than trying to achieve this impossible dream.

Why has ETSA not been able to put on display in the House what it costs for householders if they use power at various times of the day? We are light years behind North-West America in terms of our intelligent approach to conservation and education in energy matters. One can go to Washington State in North-West America where, for example, Governments actually give householders, for nothing, an energy efficient refrigerator as part of the deal because they know they will benefit from the energy savings over a period. That is how far we are behind in South Australia.

Of course, it took an Industries Assistance Commission national inquiry in the late 1980s to expose something of which I and I suspect many other people were ignorant. That was that the Electricity Trust—

The Hon. I. Gilfillan: Would you like to get a free refrigerator?

The Hon. L.H. DAVIS: The climate will certainly be warmer and we probably will not need it. The fact is that for many years we lived in an economic cocoon when it came to recognising and understanding how uncompetitive the Electricity Trust of South Australia was. It had managed to parade a good corporate image, perhaps harking back to the days when Tom Playford created it, and that it was a good corporate citizen. No doubt it was, but it was certainly not a cost-effective and efficient operator.

The IAC report exposed for all time how inefficient the Electricity Trust was and how scandalous it is that we are still mining coal out of Leigh Creek. Those chickens are coming home to roost on the terrace mines of Leigh Creek. We see those fires which are a hazard to worker safety and which are causing WorkCover claims to be lodged even as we speak. We see grotesque attempts to hide the true cost of mining at Leigh Creek. Over years we have seen the ridiculous attempts to try to justify ETSA's pet hobbies of spending money on what was water rather than coal at Lochiel and Bowmans.

Tens of millions of dollars have been wasted all in the name of vanity. There is no other reason; there was no economic logic. Millions of dollars were spent, all in the name of vanity, on ETSA's pet project. The trust said, 'Let us spend money on it.' There was no reality at all. I get the feeling that the E&WS is light years behind in terms of world best practice. It is one thing to say it—as this document does—but, my goodness, it is another thing to do it.

Let us look at the extraordinarily good Carnegie report which actually asks the right questions then attempts to answer them, unlike what this lame duck Government has done with this legislation. I refer to the electricity price comparisons for 1990-91 from the Electricity Supply Authority of Australia. These are the latest figures available and new ones will be released (for the benefit of the Government) in nine days, and it should look at them because not much will have changed.

In terms of domestic average prices, cents per kilowatt hour, South Australia ranks second behind Western Australia with the most expensive electricity price for domestic electricity, and it ranks a comfortable second behind Western Australia again for commercial and industrial electricity.

Of course, we all know that we have the most expensive water here in South Australia. So, it is not a bad quinella. The Government is putting together the second most expensive electricity generator with the most expensive supplier of water in Australia and then claims that we have world best practice. It is a terrific idea.

It is unfortunate that someone did not look at the logic of it and did not ask the right questions and provide the right answers instead of rushing to judgment so quickly. Let me put it in perspective. This multi-billion merger has taken less time to put together and see the light of day in legislation than some of the straightforward questions that the Liberal Party and the Australian Democrats have taken to get answered in this Council. That is how extraordinary this matter appears to me.

The Carnegie report of Western Australia recommends that the State Energy Commission of Western Australia be broken up. It recommends that Generation WA should become a corporatised Government trading enterprise owning and operating all of the State Energy Commission of Western Australia's generating plants in the south-west of Western Australia and that they should be permitted to sell electricity directly and as a back-up supply to consumers taking supply at 132 kilovolts or above if it has capacity that is not contracted to supply Power West, and that Power West, a separate corporate structure established, should be responsible for the operation of the transmission system and for the scheduling and dispatch of generators.

Generation Western Australia should assume the State Electricity Commission of Western Australia's existing coal purchase contracts. In other words, they have broken the generation and transmission operations in Western Australia and segregated them out. As well, they have separated out the electricity and gas operations in the first place. They have done exactly the opposite to what has occurred in South Australia.

As some of my colleagues would know, I have a background in this commercial area. I have to tell the Government that it is a laughing stock, but I do not believe that that would come as a surprise to it. The Government is a laughing stock of people with sophistication and knowledge in electricity generation, coal mining and the water industry.

I have consulted widely here and interstate and certainly that is a very strong consensus. Unlike this Government, the Energy Board of Review 'commenced its work with a search for the world's best practices in electricity and gas supply. Worlds best practice in comparable situations could serve as a standard against which current structures of the electricity and gas industries in Western Australia could be expressed.'

They visited North America, which has been widely recognised as leaders in terms of practice and performance. They also spoke with their regulators. The electricity industry in the United Kingdom has been radically restructured as part of the privatisation program of the British Government. They discussed that program with industry participants, generators, the transmission companies, regional distribution and sales organisations and the regulatory authorities. They also looked at Northern Ireland and the Government of New Zealand, which has had a recent major restructure of the energy industry.

In September 1992, a year ago, the Energy Board of Review released a document for public discussion and comment which described the current structures of the

electricity and gas industries and identified some of the major problems. It suggested options and invited interested parties to make submissions. It received 60 submissions and 12 months later it has handed down this 100 page document.

Contrast the professionalism, the style and the thoroughness of that review with this shoddy, unprofessional, head-hanging attempt by this limp-wristed Government. It is absolutely disgraceful. If they had any decency they would let this legislation lie on the table. They really would.

The Hon. Carolyn Pickles interjecting:

The Hon. L.H. DAVIS: Certainly I would have a lot more life than this legislation left in me if I was lying on the table. So what in essence the Carnegie report said was that they would transfer gas transmission to an independent corporate Government trading enterprise, corporatise Western Australian State energy and, for the purposes of this discussion, particularly importantly, would separate the electricity and gas businesses currently within the State Energy Commission, separate electricity generation from transmission, distribution and sales and introduce competitive bidding for future generation requirements. Clever that: actually to introduce competition—not a word that is found in the second reading speech, not a word that has occurred to this Government.

Following the work to establish world best practices and consultation within the community, further options were described and their implications were explored and then they ultimately came down with their recommendations. But they make the very strong point in this review that the supply of electricity to consumers involves four main activities, namely, generation, transmission, distribution and sales. I quote from page 7, where they state:

> Businesses in the electricity industry are no longer seeing themselves as local service providers. Many have recognised that specific skills and expertise developed in the construction and operation of power supply facilities to serve local communities have value in a world market. They are offering these skills and services often in joint ventures with equipment suppliers and bankers in countries where Governments are seeking private sector involvement in the provision of infrastructure. Entrepreneurial and international businesses are emerging in the electricity supply industry.

What an exciting concept, what a realistic approach: not only adopt world best practice but also, 'Let us go out there and win some business doing it.' Can you imagine WETSA, which is probably what the E&WS and ETSA, will be called, getting out there and saying, 'Put your electricity and water together and, boy, have we got a deal for you.'

There is not another country or State in the world going in this direction, let me tell you. So, in Europe as in Australia, Governments have often taken the predominant role in providing the monopoly position in electricity and water, but in North America electricity generation more often than not has been in the private sector, although it has been regulated by both Federal and State Governments in America. As the Carnegie report says, one of the problems with electricity generation is that you have this massive investment in plants with long lives. That has been an important reason why the electricity industry has been slow to adopt change, but rapid change is now taking place, except, it seems, in South Australia.

So, this recommendation is very strong: the private sector in the Carnegie report comes through as strongly advocating change. The Energy Board of Review, the Carnegie board, found growing concern with existing arrangements for electricity supply and an increasing interest in greater private sector involvement in the electricity industry.

This Government did not even look at that option. Not only is it an option that is adopted by Liberal, right wing Governments around the world but also there are Labor Governments in Australia, such as Queensland and Western Australia, looking at private sector generation of electricity.

It is no longer a capitalist bogey; people are being economically realistic in examining these options, not touched in this legislation now before us.

Also, there were a number of companies in Western Australia such as APM, BP and Western Mining which had all looked at the feasibility of their own co-generation, becoming involved themselves in a more competitive electricity industry. The State Energy Commission of Western Australia was seen as protecting its own business position in the electricity and gas industries.

That is the tone of the Carnegie report, a significant document, a document which has been ignored by this Government but which is not being ignored by the Liberal Party in South Australia.

Finally, another point that was made by the private sector, which was critical of the monopoly position of SEC of Western Australia, was that its pricing policies did not reflect the true cost of the service; it provided subsidies from one consumer group to another and did not offer a sufficient choice of tariffs. How on earth will you improve the position in South Australia by mixing electricity and water? No way.

The final point which I want to make, and which I cannot emphasise too much, is that this legislation totally ignores what the Carnegie report found to be true internationally, and I quote from page 25, as follows:

> Experience internationally has shown that the coordination of generation and transmission does not require vertical integration. Coordination can be achieved through contracts.

In other words, they are saying that there is merit in segregating out generation and transmission. The board considered that the vertical monopoly must be dismantled. It stated:

> Conditions must be developed in which competition can emerge in the electricity industry. Since generation accounts for 67 per cent of the delivered costs of electricity, it is logical to look at that activity first.

Did we look at that activity first? No, we did not. The only justification for this merger was contained in eight lines in the weekend senior executives, 20 page, unsigned, undated effort to justify this merger. It was justified in eight lines; it is a disgrace.

The report goes on to say:

> The world has turned to the generation sector to introduce competition to the electricity industry.

What have we in South Australia done? We turned against it. The report continues:

> Generation competition can be stifled under the current SECWA structure. Generation of electricity is pointless if it cannot be transmitted, distributed and sold. A vertically integrated utility can therefore protect its structure, and stifle competition, by denying access by generators to its transmission network. . . .
>
> Therefore, least cost electricity generation will not emerge from a virtually unregulated vertical monopoly. SECWA has no incentive to pursue a competition generation sector. . . .
>
> The board, therefore, concludes that SECWA's electricity business should be split into two separate utilities, a generating business which we will call Generation WA, and another business, PowerWest, to transmit, distribute and sell electricity. This separates the competitive function from the natural monopoly functions.

That is impressive stuff; it is material which just cannot be rebutted. Following hard on the heels of that recently released Carnegie report within the last few weeks, I understand that

the main gas turbine power station of the State Energy Commission of Western Australia is being packaged for possible sale to private enterprise. That is at Pinjar, just north of Perth. That is following the recommendations in the Carnegie report.

In a desperate attempt to justify the legislation after it had been drafted, we have the Ernst and Young document. It will be interesting for the Government to tell us exactly how much the Ernst and Young document cost. However, it can be said that it saw the light of day only at some time in August after the Bill was introduced into the House of Assembly. It is pertinent to note the disclaimer on the last page of the document:

> Ernst and Young have prepared this report and based their opinions on information and assumptions provided to us by the client (EWS/ETSA).
>
> Neither Ernst and Young nor any member or employee of Ernst and Young accepts any responsibility for any decisions made by EWS/ETSA based upon Ernst and Young's interpretation of data provided to it by EWS/ETSA. . . .
>
> Ernst and Young reserves the right to vary its opinion should additional information become available after the date of this report.

I certainly could give them some additional information and I should be pleased to do so. I am sure that after I give them additional information, which will become available when the select committee takes effect, they will be in a position to vary their report. This is palpably a document which cannot be said to be independent. Ernst and Young were not allowed to go into ETSA and E&WS and make their own judgments about the state of play in those two mammoth organisations. All they have done is to crank up their calculators on the data provided to them by E&WS and ETSA. I mean no disrespect to Ernst and Young when I say that, understandably, it is a very thin document. They have done what they had been told to do. But let us not get carried away, as Mr Phipps did in a memo to his staff when he said that Ernst and Young had been brought in to provide an independent view, because that is not true. The report from Ernst and Young cannot pretend to be seen to be an independent view.

It has to be said that the claimed savings potential has no credibility unless the source estimates are provided. We have not had them. Until yesterday we had no current data on ETSA and E&WS for the financial year just ended. This Government asked the Australian Democrats and the Liberal Party to make a judgment on this Bill arguably before that information became available. I refused to speak on this Bill until those documents became available. I want to discuss some of the matters contained in the Auditor-General's Report shortly.

One cannot claim that the savings are substantial or even reasonable unless a break-up is provided of the present cost of each organisation in its major component parts, and we have not had that. For example, for ETSA it would require a formal statement broken up into fuel supply by source and type, each generating station, the distribution and supply activities and head office finance and administration.

The Minister (Mr Klunder) has had some experience in mammoth organisations. He has presided over Scrimber and Woods and Forests, so he has had some impressive background preparation for this merger. The Minister refers to claims by others that merger savings will be less than savings that can be achieved if the agencies remain separate. However, he has not provided one shred of evidence to refute the claims. That denies world-wide experience where more competitive behaviour is encouraged among employees when organisations have been broken up and forced to compete in the real world. That aspect has not been looked at. There has been no examination whatsoever along the lines of the Carnegie report. It is quite appalling.

As I have said, the Western Australian Government's decision to break up SECWA was a separate example altogether, because the consultants measured the savings with and without the break-up. That has not been done here. The whole exercise has been fudged quite deliberately and unprofessionally.

It would be pleasing to have made available the full data which justifies this merger, because so far no justification has been given to the Parliament. The Minister proposes the establishment of a representative committee to conduct the merger to ensure that all internal and external stakeholders can take part. In fact, the committee does not have any representative of customers and there is no business expertise or organisational change consultant expertise. Again, that shows how unprofessional the approach to this legislation has been.

The Minister also claims, without offering any evidence whatsoever, that there is no alternative which would perform better either in terms of the level of benefits to be derived or in the time frame within which the benefits can be delivered. It is apparent that no alternatives have been studied in any detail, let alone an independent expert report produced which concludes that the Government's proposed action is the best option. That simply has not been done.

I turn now to the Auditor-General's Report. Here we have yet further examples showing how much has been covered up and how short of best practice these two organisations are. In the 1992 report of the Auditor-General, under the heading 'Operations', detailed information was given about the sources of the revenue for the operations of ETSA. Specific information was given by category as to residential sales, industrial sales, pumping for major pipelines and general purpose sales in terms of revenue, customer numbers and average price and a comparison was made with the previous year.

It also gives specific information about the revenue from sales. None of that information is available in the 1993 Report. We have no idea what has happened to the Electricity Trust in 1992-93. That very important and critical section has been completely shredded from the Auditor-General's Report. I cannot comment intelligently on what has happened to revenue from the Electricity Trust in 1992-93 going into this very important debate. Quite a disgrace. In fact, the evidence given in the Auditor-General's Report—and of course it is not the Auditor-General's fault, as he is basing it only on information provided to him by ETSA—gives quite contradictory information.

But if we look through the Auditor-General's Report we see that there are still major concerns expressed by the Auditor-General about the approach to such important matters as revaluation of power stations. He expressed great concern about the trust methodology for revaluing its non-current assets, which are of course a major part of its balance sheet. Whilst he noted some improvements have been made in 1992-93, he makes the very valid point that these revaluations were not, however, subject to an independent external review. Audit reiterates that it would be timely for the trust to engage an independent specialist to review the trust's methodology. In other words, it does not have anyone independent reviewing its most important assets. How disgraceful!

As I have said, we are not able to tell whether costs have gone up and down or whether there has been a growth in sales or not because there is contradictory evidence given in the Auditor-General's Report. There is an inconsistency; no break up of sales, as I mentioned. There is no identification of the range of salaries, as all other statutory authorities have provided, including the E&WS.

If we turn to the Engineering and Water Supply Department we see, according to the Auditor-General's restrained language that, putting it bluntly, the EDP system is in an appalling state. There is a page of criticism about the great problems it is having with its accounting systems. On page 92 the Auditor-General states:

> A limited Audit review of these interim financial statements in May 1993 revealed that the reconciliation process was still unsatisfactory. Additional resources were assigned to ensure that the required financial reconciliations were performed within the required time frame so as to support the integrity of the annual financial statements.

That is a bit of a worry, isn't it? Here we are, rushing to judgment on a merger of these two organisations. Absolutely appalling! If these two organisations were out in the private arena, if they were in the private sector and subject to the scrutiny of the media and the Stock Exchange they would be headlines on page one. That is how bad it is in my judgment.

Finally—and there is so much more one can say about this appalling mess—at page 98 of the Auditor-General's Report there is this extraordinary statement under the heading 'Unrecouped Salaries and Wages':

> The transfer of employees from various other public authorities resulted in the department being unable to meet specified head count targets stipulated by the SA Treasury Department. This resulted in the imposition of penalties totalling $537 000 not incurred in previous years.

I think to de-Sir-Humphryise that sentence, what we are really saying is that E&WS was trying to provide some voluntary separation packages and to reduce staff numbers but the Government was forcing it to take on board people who were being redeployed from other departments or authorities. That is the only interpretation I can give to that.

When we look at the savings, we see that they are not all merger savings by any means; I think a minority of the savings that are pumped up by the Government in this unprofessional second reading explanation are merger savings.

The Electricity Trust has just been through a round of voluntary separation packages, so how will it get the pips squeaking even more? The Government says that it will not retrench anyone and that, if people do not want to go, they will be redeployed to another Government department or authority. That will not effect a saving at all. It will effect a saving in ETSA and the E&WS, but the cost will be laid off somewhere else. So there we have it.

I could continue for some time, but I will not because I am aware of the lateness of the hour. This is a matter about which I feel very strongly. It is legislation, in my view, which should not have appeared in the Parliament, because it does not have the necessary supporting document. There has not been the necessary research involved in the merger proposal and the cost savings have not been properly demonstrated. As I have said, this is an absolute farce. There can be no better demonstration to the people of South Australia of the decay, unprofessionalism, and lamentable behaviour of this Government than we see before us in this legislation.

The Hon. I. GILFILLAN: I oppose the merger of ETSA and the E&WS. I recognise that it is my parliamentary responsibility to look closely at the costings, projected cost savings and possible advantages, and to take an objective balanced view of it. It is to that end that the Democrats propose a select committee to look at the detail and to consider the submissions of those who are arguing for the proposition. But there is no point in pretending that I do not have an opinion. I do. I am, I hope, always capable of varying or changing that opinion if the evidence is strong enough to persuade me to do that.

My colleague Mike Elliott is taking the responsibility for the legislation and will be moving that a select committee be established, but I have had a long-term interest in and concern with energy production in the State, and it is with that in mind that I want to make some observations and contribute to the second reading debate. It is clear that there has been misrepresentation of the perceived savings in a global sense from a so-called merger in terms of the accurate identification of savings that would accrue because of the merger in contrast with savings that can and should occur from good management in the two enterprises conducted separately.

I have some material which I think would be useful to share with members because it indicates to me the enthusiasm and the momentum that ETSA already has for improving its own performance. This is only in one particular area, which is regarded as a key area. I will quote from documents which have evolved and which have been circulated as working documents within ETSA itself. A document headed 'Key Areas for Improvement', under '6.5 Material and Inventory Costs', states:

> In the proposed materials management strategy a number of industry benchmarks were identified for both materials and inventory management practices. The analysis of these benchmarks shows that ETSA had a relatively high dependence on inventory with respect to other electricity and energy authorities. This results in a high holding cost and overheads to manage inventory. ETSA's aim is to improve overall materials management business practices to:
> · improve customer service and satisfaction
> · improve efficiency and effectiveness in purchasing, warehousing, inventory and distribution practices
> · clearly define accountability, responsibility, ownership, management controls and reporting at business unit level.

Under the heading 'Goals', it states:

> Achieve industry leadership in materials management by June 1995 by reducing inventory and holding costs by 50 per cent (that is, approximately $30 million) and improve materials management efficiency and effectiveness by between 2 per cent to 5 per cent (around $5 million per annum).

It goes on to identify the strategy used, but I point out that those savings are substantial and, as one part of ETSA's overall effort, it shows that there are in train considerable savings from the authorities themselves. With some consideration for the time, I will not read in as much as I had intended, on the basis that much of this material will come before the select committee and in consideration of a function that we have scheduled for us a little later this evening. I would, however, like to expand a bit further on this ETSA initiative and share with members some thoughts that have come to me from people with a quite close awareness of what is actually transpiring in ETSA.

In relation to the proposed merger savings for supply, warehousing, distribution, inventory and systems, if we deal with the so-called claimed merger savings, prior to the merger ETSA had targeted savings which are now being claimed as merger savings. What is not being stated is what are the savings over and above these targeted improvements, that is,

savings to cost reductions as a direct result of the merger. ETSA's targeted savings, I pointed out, should be aiming at approximately $30 million savings in holding costs and $5 million per annum in efficiency and effectiveness, and they have gone to great pains to work that into some detail.

The current savings are being achieved in ETSA through the reduction of costs of materials and services by improved purchasing strategies, improved competencies through using buying teams and whole of life costing evaluation and negotiation for the selection of supplies, rather than simply selecting the lowest priced technically acceptable offer; and using purchasing leverage by combining commodity groups rather than purchasing at individual item level, for example, conductors grouped into overhead, underground and high voltage/low voltage. Similarly, for transformers, insulators, switchgear, line hardware, steel, petroleum products and the other few key commodity groups.

It has been estimated that the few key commodity groups represent about 70 per cent of the total material budget of about $160 million in ETSA's expenditure budget. ETSA's expenditure on materials, works and services is about $300 million per annum, which excludes the fuel for Torrens Island Power Station and freight costs for coal. In relation to the proposed merger savings through combined purchasing power, while there may appear not to be many similar materials of significant expenditure being purchased which are common to both ETSA and the E&WS Department, there are some similar materials such as fuel, paper products, vehicles, minor plant and office equipment, and it has been estimated that expenditure in those similar industries and products could be around $130 million.

However, a point that I have made and repeat is that it is very difficult to substantiate any savings that have been made through the merger. In relation to fuel, as ETSA's costs for fuel per litre are less than State Supply fuel prices, which the E&WS Department pays, it is reasonable to ask why ETSA's price is better than that of the Government, because the Government volume is obviously larger than ETSA's. I am advised that ETSA's better fuel costs are a result of improved purchasing strategies and better cost controls within the contracts, irrespective of the fact that ETSA owns its fuel tanks and pumps, while Mobil owns the Government's tanks and pumps.

For these merger savings to be realised, negotiations would need to be undertaken with fuel suppliers and implications for existing Government suppliers investigated. However, savings through reduced costs of supply could be—and I emphasise could be—approximately $300 000 per annum as a result of good negotiation, rather than the consequence of a merger.

With regard to vehicles, there is an assumption that some price volume break improvements will exist in the purchasing of a larger vehicle fleet. Potential cost reductions of the price of vehicles in the form of increased discounts may be available but will depend on market forces, for example, the willingness of suppliers to improve their prices to secure the business. ETSA's existing contracts for vehicles contain significant discounts, while E&WS purchases passenger vehicles using the State Supply contracts which likewise contain significant discounts. Any additional discounts are estimated to be relatively small. We have no figures, but I would again postulate that any potential savings could be achieved by joint cooperative purchasing procedures and strategies and do not require a merger. There are many other products in which coordinated purchasing could be useful and it may well be worthwhile getting accurate costs on quite simple things such as paper, stationery, towels and so on.

With regard to the leveraging of similar or common vendors to both agencies, while any statistical figures may present a high level of expenditure with similar vendors used by ETSA and E&WS-figures that I have heard range between $150 million and $160 million-once again the amount of cost reduction that would be achieved is debatable. One assumes that there has been some pretty tight and hard bargaining already involved, and if there is a potential I again make the point that there is no reason why there cannot be cooperative purchasing arrangements so that you have strategy and leverage with these vendors and so that whatever cost advantage could come from purchasing through a merged organisation could be available through purchasing with a joint effort by the two organisations.

Regarding proposed staff reductions as a result of the merger, ETSA is focusing more on the potential savings resulting from improved purchasing and contracting strategies on the few key commodity groups than on any savings that may come from reducing purchasing and contracting staff, which represents a much smaller dollar expenditure, remembering that reductions have already occurred as a result of restructuring and commercialisation; that is, a 2 per cent cost reduction on, say, expenditure of $160 million for material purchases will be far greater than a 10 per cent reduction in the staff managing the purchases and contracts.

In addition, there is a danger that if insufficient skilled staff remain then the potential savings may well be forgone as well. In particular, we are informed that front line staff are not going to be reduced and that productivity is to improve; that is, the demand for materials could well increase with a resulting increase in volume activity. In fact, if we assume the volume of purchasing and contracting activity is to remain the same and staff is reduced then the real danger will be that customer service and service quality will decline and the costs of materials will increase.

So, it is clear that promises of staff reductions would be counterproductive at least in this area of ETSA at this stage of 1993. There may be a perceived duplication of purchasing and contracting functions and activities in the merged agency. If the demand for these services is likely to remain the same, and bearing in mind that restructuring has already occurred, reducing staff in these functions is likely to cause a decline in service delivery. Recent internal audits within ETSA suggest that purchasing and contracting functions have insufficient resources to maintain and update controls, procedures and skills, leaving ETSA exposed to more potential risks and increased costs.

The staff reductions claimed in supply, warehousing and distribution over and above recent reductions than those planned are based on a benchmark target of 3 per cent of staff involved in these functions to the total work force. What is unclear is what staff (for example, purchasing, storemen, inventory control, stores receiving, inspection, accounts payable, etc.) have formed the basis of the benchmark and whether we are comparing like with like. Furthermore, as a result of restructuring many of ETSA's staff involved in these activities are now multi-skilled and not undertaking these activities in a full-time capacity. Consequently any attempt to reduce full-time equivalents, that is staff, will not be achieved.

As to the cost of merging, we need to establish common cataloguing databases and common codification of materials. I am advised that ETSA has approximately 70 000 items

catalogued. There is a need to develop common information systems to enable savings to be delivered. In fact, the delivery of many of the proposed savings will be very much dependent on the Info-system being available. Costs of hardware, software, licences, increased maintenance, developing manuals, developing training material, training, purchasing, installing and commissioning the additional system requirements cannot be underestimated, or certainly should not be underestimated, as well as the time it will take. So, it is quite clear that there is a big problem with getting any clear indication at this stage that there are advantages in merging ETSA with E&WS in that arena of cost saving, and at what cost in losing the corporate morale in remaining as a separate entity.

I would like to conclude my remarks by referring briefly to an article in the American magazine, *Home Energy*, a magazine of residential energy conservation. In an article entitled 'Pulling Utilities Together: Water-Energy Partnerships, there are some very good and clear examples of how cooperation can substantially introduce savings to both enterprises through, in particular, conservation measures. It is unfortunate that I do not have more time to speak on this, but maybe I can do so on another occasion. Under the heading 'Bound for Efficiency' the article states:

> Utility partners do not literally exchange dollars as they divide program responsibilities. Instead they barter services such as marketing, fixture purchasing and installation, while capitalising on the strengths of each partner.

It further states:

> Successful partnerships design communication and flexibility into the relationship. . . .They create a precise structure with a nimbleness to make rapid adjustments.

These are all capable of being done with separate entities. Under the heading 'San Diego Area Utilities' the article states:

> San Diego Gas and Electric (SDG&E) and San Diego County Water Authority have teamed up since 1990 to install high efficiency showerheads door to door.

Under the heading 'Seattle-King County "Home Water Savers"' the article further states:

> In 1992, the Seattle Water Department and its 27 wholesale purveyors, Puget Sound Power and Light and Seattle City Light ran the country's largest collaborative residential water and energy saving program. . . .They went door to door providing conservation kits to over 300 000 single family homes. . .

That was carried out with substantial success and substantial savings. Conscious of the time, I will not go into the detail except to point out what I think is so essentially emphasised in this American experience: that all the goals or supposed goals of the merger are achievable, and I would argue more efficiently and at lower cost, with two separate entities—but with the will to combine and to cooperate in certain tasks. So, Mr President, I remain completely unconvinced that there is a justification for merging ETSA and E&WS. I do accept that there are grounds under the circumstances to have the matter looked at by a select committee because we are not able to get adequate and objective costings made available to us, and therefore it is my intention to support the motion of my colleague the Hon. Mike Elliott when he moves that this matter be referred to a select committee.

The Hon. ANNE LEVY (Minister for the Arts and Cultural Heritage): In closing the second reading debate I would like to thank all members who have contributed to this debate. In particular, I am heartened by the attitude of some of the members opposite, that they are at least prepared to support this Bill if they can be satisfied that savings can be achieved.

I believe this can be achieved. It is clear that at this stage the Bill will be referred to a select committee. Therefore, I do not intend to respond in detail to all the issues raised, because they can be left for consideration in the committee. It is certainly true there is not universal support for this initiative, but that is to be expected. Whenever there are significant changes affecting many operations and employees in any organisation, some will see barriers to these changes. There will be genuine fears and beliefs. While we must properly consider all contrary views, these must nevertheless be placed in a proper context. On the one hand, we have people sufficiently afraid or disgruntled to write to the Opposition. On the other hand, we have the views of experienced and committed administrators who will have to perform within the estimates that they are now making. Responsible administrators are not likely to promote knowingly unattainable savings.

Furthermore, the estimates have been verified by independent and reputable consultants Ernst and Young. I know that attention was drawn to the disclaimer contained in that report. Given the modern era of litigation, this type of disclaimer is becoming more commonplace. This, however, should not devalue the conclusions detailed in the report. I draw members' attention to page 1 of that report. The consultants did not just accept data supplied by the agencies. I quote from the report for the benefit of members, as follows:

> The review process involved:
> Discussions with the relevant directors to substantiate the rationale behind the savings;

That hardly represents passive acceptance of the views of the directors. It continues:

> Assessment of each function to determine areas of potential duplication;

Again, this certainly suggests independent assessment. It goes on:

> Identification of full-time equivalent positions involved in areas of potential duplication;
> Identification of costs of employing both E&WS and ETSA staff;
> Objective assessment as to the potential savings potential.

I stress the words used by the consultants are 'objective assessment', which certainly supports the Government's claim of substantial independence of the consultants. It continues:

> An assessment of costs associated with the implementation of the merger.

Furthermore, in the summary at page 3 of the report, the consultants say:

> Our approach throughout this assessment has been to adopt a very conservative philosophy.

So, let us put to rest the suggestion that the consultancy involved only some minor recalculation or rehashing of the figures of the agencies. The Opposition has claimed that the quantum of yearly savings has escalated from $30 million to $111 million, and back to $56 million in the Ernst and Young report. Let me make clear that the Government has never made a claim of more than a minimum of $50 million in savings. The document 'Strategic Savings Potential' did show for indicative purposes only that the maximum could be as high as $111 million yearly. Hence, there has not been the inconsistency claimed by the Opposition. The Government

accepts that the high end is somewhat optimistic and since that early report has represented only the conservative end, that is $50 million annually as the minimum achievable savings target.

Another issue which has been canvassed by members opposite is that much of the savings could be achieved without the merger. I am certainly amazed at this. Members will be aware that both ETSA and the E&WS have been rightsizing for a number of years. The scope for further rationalisation is fast becoming very limited. For those who have been closely associated with public administration, there is little doubt that the bulk of further savings can be achieved only by the proposed merger.

There is little point in being theoretical about this. While collaboration between agencies may achieve some savings in some areas, these would be marginal when compared with savings which can occur at the practical level under a single administration. The wage differential between ETSA and the E&WS has been raised with the claim of substantial additional costs to the merged organisation.

The Opposition seems to be placing reliance on the very crude figures suggested in a report quoted in full in the other place. The Government believes that the costs involved will be offset through enterprise bargaining and other industrial agreements.

Let me now turn to the internal audit question. The Hon. Mr Lucas sees some problem because the Minister of Public Infrastructure conceded that he might be prepared to increase staffing in that area if the need could be proved. This should not be seen as a weakness. All the figures quoted must be accepted as being flexible. It is equally possible that in other areas further savings may be later identified.

In relation to rural areas, I want to assure members that it is not the intent of Government, as a direct consequence of the merger, to reduce the support it provides to country areas. City domestic users will continue to subsidise those in the country. A number of other issues have been raised which are similar to issues raised in another place. The answers to these have already been recorded in *Hansard*. No doubt these and other issues can be further discussed *ad nauseam* in the select committee, if it is established, and reiterated *ad nauseam* in Committee.

Bill read a second time and referred to a select committee consisting of the Hons L.H. Davis, M.J. Elliott, Anne Levy, R.I. Lucas and T.G. Roberts; that Standing Order 389 be so far suspended as to enable the Chairperson of the committee to have a deliberative vote only; the committee to have power to send for persons, papers and records, and to adjourn from place to place; the committee to report on 19 October.

STATUTES AMENDMENT AND REPEAL (POWER AND WATER) BILL

Adjourned debate on second reading.

(Continued from 26 August. Page 314.)

The Hon. R.I. LUCAS (Leader of the Opposition): As this measure is associated with the Southern Power and Water Bill, there is no need for a long discussion on the second reading. On behalf of the Liberal Party I intend to move that the Bill be referred to the select committee that has just been established, and my colleague the Hon. Mr Stefani will be moving similarly with the next piece of legislation.

Bill read a second time.

The Hon. R.I. LUCAS (Leader of the Opposition): I move:

That this Bill be referred to the Select Committee on the Southern Power and Water Bill.

Motion carried.

ELECTRICIANS, PLUMBERS AND GAS FITTERS LICENSING BILL

Adjourned debate on second reading.

(Continued from 7 September. Page 330.)

The Hon. J.F. STEFANI: I will not prolong the sitting of the Council any more than I need to. I have had discussions with employer and union representatives about this Bill and they have conveyed to me their concerns. A number of areas will need to be addressed. In view of the legislation that will now be dealt with by a select committee, it is appropriate that this Bill should also form part of the investigation and evidence that will be taken by that select committee. I intend to move a motion to refer the Bill to that select committee.

The Hon. ANNE LEVY (Minister for the Arts and Cultural Heritage): In responding, I wish to point out that this Bill is a totally distinctive legislative proposal. It is not an intrinsic part of the E&WS/ETSA merger. The merger proposal merely provided the opportunity to further the Government's one-stop licensing policy. Given that there is some overlap between the trades—plumbers and gas fitters can get a restricted workers licence and vice versa—bringing these trades under the same legislative umbrella at this point in time makes a lot of sense.

The legislation is largely enabling; all the details will be dealt with in regulation. The Minister in the other place has undertaken that he will consult with the industry and that draft regulations will be tabled in the House before the legislation is further debated. I maintain that the whole purpose of the select committee that has just been set up is to examine the potential savings of the merger. Furthermore, this particular Bill is not relevant to the select committee's examination of the merger proposal. I strongly hold to the view that only the two Bills already referred to the select committee should be referred thereto.

I reiterate the undertaking given in the other place that no further debate will occur on this piece of legislation until the regulations that go with it are available for members to peruse. However, I maintain that it should not be part of the select committee's consideration as it is not a part of the merger that the select committee has been established to consider.

Bill read a second time.

The Hon. J.F. STEFANI: I move:

That the Bill be referred to the Select Committee on the Southern Power and Water Bill.

The Hon. ANNE LEVY (Minister for the Arts and Cultural Heritage): I reiterate my opposition, as this Bill has nothing to do with the merger of the E&WS Department and ETSA.

Motion carried.

STATE BANK OF SOUTH AUSTRALIA (PREPARATION FOR RESTRUCTURING) AMENDMENT BILL

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

MUTUAL RECOGNITION (SOUTH AUSTRALIA) BILL

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

AUDITOR-GENERAL'S REPORT

The PRESIDENT: I draw to members' attention the erratum that the Auditor-General has advised is necessary in the annual report tabled yesterday. I have directed that a copy of the Auditor-General's advice be circulated to all members for insertion in their copies of the report.

ADJOURNMENT

At 6.33 p.m. the Council adjourned until Wednesday 6 October at 2.15 p.m.