LEGISLATIVE COUNCIL

Thursday 30 November 1995

The PRESIDENT (Hon. Peter Dunn) took the Chair at 11 a.m. and read prayers.

CRIMINAL LAW CONSOLIDATION (APPEALS) AMENDMENT BILL

The Hon. R.I. LUCAS (Minister for Education and Children's Services): On behalf of the Attorney-General, I move:

That the sittings of the Council be not suspended during continuation of the conference on the Bill.

Motion carried.

LOCAL GOVERNMENT (BOUNDARY REFORM) AMENDMENT BILL

The Hon. DIANA LAIDLAW (Minister for Transport): I move:

That the sittings of the Council be not suspended during the continuation of the conference on the Bill.

Motion carried.

COMMUNITY TITLES BILL

The Hon. K.T. GRIFFIN (Attorney-General) obtained leave and introduced a Bill for an Act to provide for the division of land into lots and common property; to provide for the administration of the land by the owners of the lots; and for other purposes. Read a first time.

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

That this Bill be now read a second time.

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

Leave granted.

The concept of community titles has been talked about for many years in South Australia. In the 1970's the concept of "cluster titles" was examined and a draft Bill was prepared but did not progress. The Bill was redrawn in the early 1980's, but again did not progress. The need for a form of subdivision which would allow for the private ownership of land combined with the ownership of other community land or facilities continued to be explored in other States. The fact that earlier projects in this State failed to come to fruition is, in retrospect, unfortunate, as other States have now moved to this type of legislation and have had the benefit of this form of subdivision while South Australia is only now considering it.

This Government has determined that community titles have the potential to provide an innovative and important impetus to development in this State.

In March 1995, following extensive background research, a draft Community Titles Bill was released for public consultation.

Over 100 copies of the Bill were distributed to industry groups and organisations, members of the public, statutory authorities and local government bodies. Over 40 written submissions were received. A revision of the Bill was undertaken following a careful assessment of the submissions received. A second draft of the Community Titles Bill was circulated for a further round of public consultation in August 1995. The consultation process on the revised draft yielded further submissions which have also been considered and improvements to the Bill made as a result. Officers of the Land Services Group visited several country centres to speak about the Bill and several large seminars have been held in the city involving a wide variety of industry groups.

This Bill, therefore, is the culmination of significant public consultation.

The community titles are designed to fill a vacuum between conventional subdivision and strata subdivision. The basic effect of this Bill is to enable common property to be created within conventional subdivisions.

In addition to extending the concept of shared use of common facilities to subdivisions which may consist of no more than vacant blocks of land, the Bill provides for the development of planned communities of any type where some of the land is shared. The types of projects which could be developed under a community titles scheme include:

- business parks
- university and research parks
- resorts
- urban developments
- rural co-operative developments (eg wineries)
- industrial developments
- mobile homes and parks

In New South Wales, where community titles legislation has been in place for 5 years, schemes have already been registered or are in the planning stages for all of the above types of developments.

The Community Titles Bill enables the development of schemes in several stages over time or of schemes developed totally at one time.

The Community titles Bill will permit projects ranging in size from small groups of houses clustered around a common area of open space or sharing no more than a common driveway, to large communities with shared roadways and facilities bases on commercial, sporting, recreational, or agricultural features.

As is the case with strata title development now, the common areas within a development will be owned and managed by a body corporate comprising all lot owners.

As a means of overcoming a limiting effect of strata titles legislation, which is not well suited to nor does it facilitate the promotion of mixed developments containing separate areas for residential, commercial and recreational uses, community titles legislation provides machinery for flexibility in management and administrative arrangements operating in the scheme. This necessary degree of flexibility is achieved by providing for multi-tiered management and by permitting an individually tailored set of by-laws to be prepared for each scheme, setting out the rules and procedures relating to the administration of and participation in the scheme.

Community titles will be able to be used as a framework for medium density housing as well as facilitating the construction of major resorts, innovative rural development and industrial and commercial complexes.

The Bill contains a number of significant features to permit its application to a wide variety of developments and to provide sufficient flexibility to maximise its use by developers. The Bill also contains provisions in the nature of protection for prospective purchasers.

The key features of the Bill are as follows:

1. Staged Development of Schemes.

Community schemes will be permitted to be completed in stages. This has several advantages:

- initial development costs will be lower because one stage can be used to finance the construction of later stages.
- higher density may be achieved.
- with an amalgamated site, greater flexibility of design will permit the more appropriate siting of buildings in sympathy with one another and with the environment. The Bill should thus promote the more effective use of land than existing forms of subdivision.

Staging may be achieved by the creation of one or more development lots with a primary, secondary or tertiary plan. A development lot is land set aside in a tier to enable further community lots and common property to be added as part of staged development at that level. Once developed, the community lots created will become part of the corporation at the level at which the development lot was created.

The creation of a tiered scheme will also have the effect of allowing the completing the scheme in stages.

2. Non-staged development.

The Bill permits developers to undertake non staged subdivision by registration of a primary community plan—this plan divides the land into community lots and common property. A body corporate would be created upon the deposit of the plan to manage the common property.

3. Management Structures

The possibility of a multi-tiered management structure is regarded interstate as a key feature of community titles legislation.

Experience has shown that the management and related provisions of the strata legislation are inadequate to cope with the management of large scale developments. Multi-tiered management is designed to overcome these deficiencies and will enable the development of large scale schemes with adequate statutory support for the on going future management of the scheme.

It will be for the developer to determine which management structure is appropriate for each individual development. Interstate experience shows that in general, the less tiers of management the better. If too complex a management structure is chosen for a relatively simple development there will be purchaser resistance. In general, three tiers of management will be most applicable to developments such as large complex resorts or where a variety of uses are mixed in one development. It is of note that in the 5 years of the operation of the NSW legislation there has never been a three tiered scheme.

The first plan to be lodged in a tiered staged scheme will be the primary community plan which must divide the land into at least two community lots and common property. Upon registration of this plan the primary community corporation will come into existence. This corporation will generally have the umbrella control over matters concerning the community as a whole. This Corporation may be concerned with the maintenance of the overall community theme, security, internal private road network and landscaping.

In a two tier management structure, the second tier of management is created by the deposit of a secondary plan dividing a primary community lot thus creating secondary corporations.

In certain instances a developer may wish to introduce a third tier of management which is done by subdividing a secondary lot into two or more tertiary lots.

4. Scheme Description

The Bill provides for the preparation of a document called a "Scheme Description" which is to provide a brief description of the scheme of the division, development, and administration of the scheme. The document will contain information such as the purposes for which the lots and the common property in the scheme may be used, the type of work the developer intends to undertake on the common property, standard of buildings to be erected, the nature and scope of the work to be undertaken in each stage of the development of the scheme, and other important features of the scheme.

This document must be approved by the relevant planning authority and will be of benefit to those persons considering purchasing or entering into any dealing with a lot.

Simplified documentation is allowed for in the case of small developments—the Bill proposes that for developments of up to 6 lots in a non-staged residential development a scheme description will not be required. Thus, much of the development with which we are familiar, particularly in the metropolitan area will not require this document.

5. By-laws.

As with the current strata titles legislation, common areas in a community scheme are owned and managed by the proprietors of the lots in the scheme. The Bill provides for the preparation of management rules and conditions that are relevant and specifically tailored to the particular development. Hence, the management provisions for an urban medium density development will be different from those applicable to a rural community or a scheme centred around industrial uses.

All management and related details will be set out in the by-laws which will be binding on all participants in the scheme. The by-laws will accompany the relevant plan lodged for registration and will be on the public record.

The Act lists a number of issues which must be accommodated in the by-laws, the precise terms in which those matters and other matters of an administrative nature are dealt with will be left to the discretion of the developer.

The adoption of this approach will provide flexibility to adapt management requirements of the type of project being undertaken.

The Bill recognises that there will be circumstances in which the original by-laws will need to be changed or varied. Protective measures have been included to ensure that a variation cannot be effected without the participants having a say.

5. Development Contract

To balance the need for flexibility with the need to provide a mechanism for disclosures to be made in respect of the scheme, the Bill adopts the approach taken in New South Wales and requires the preparation of a development contract.

A development contract is binding on the developer and is enforceable by all participants in the scheme.

A development contract places the developer under a binding obligation to develop the scheme and to provide amenities, landscaping and other facilities which the scheme description indicated were to be part of the scheme. A development contract will be binding on successors in title, in the same way as Land Management Agreements under the Development Act are binding on successors in title.

A development contract will always be required in a staged scheme and will be required in a non-staged scheme where the developer has indicated that certain facilities and landscaping standards will be included in the completed scheme. The scope of matters to be included will depend on the extent of the developer's involvement as set out in the scheme description. Details of promised facilities and landscaping and particulars relating to the building zone, hours of work, means of access must be included if work on community facilities or a further stage of the scheme is provided for.

By entering into a contract which includes matters essential to construction, the developer will be assured of sufficient powers to complete the stage, and prospective purchasers will be assured of the completion of the stage to a stated standard.

The development contract may be varied with the consent of all lot owners.

6. Maintenance of existing development approval regimes

The zoning and planning legislation is unaffected by this Bill.

Plans for community schemes will require council/planning approval in the manner already provided in the Development Act.

7. The Strata Titles Act

The Strata Titles Act is not repealed by the Community Titles Bill. Community strata plans will still be permitted, but only in those circumstances where the development is multi storeyed and it is desired to create one lot above another.

There are significant benefits to be gained by land sub-division on the basis of measurement rather than by reference to parts of a building. The greatest advantage of community titles over the strata titles is that the ownership is of the land rather than of a space inside a building. Many owners of strata units do not realise until they wish to alter the outside appearance of their unit that they in fact only own the internal faces of the walls of the building, and that the outside is in fact common property. This means that matters such as the installation of airconditioning through the wall or roof, the addition of rainwater tanks, pergolas and blinds becomes a matter for the approval of the strata corporation and thus a possible matter for dispute. In community titled properties there may be rules about certain architectural matters, nevertheless, the need for corporation approval of many every-day additions and improvements to property will not necessarily be required. In addition, under the current Strata Titles Act, as the building is common property issues such as the repair and maintenance of the outside of the building—painting, salt damp problems, fixing of leaky pipes—fall to the corporation which often causes friction amongst members of the corporation, while under the Community Titles Act, as any building on a lot will be owned by the individual lot owner (as in a conventional subdivision) such matters will be matters for their own personal attention as required. Special provision is made for schemes to provide in their by-laws that the corporation will be responsible for maintenance, and it is envisaged this provision will be utilised only rarely, probably in developments such as retirement villages.

From the proclamation of the Community Titles Act, no new applications will be permitted under the Strata Titles Act. The effect of this will be that all current strata unit owners will continue to be subject to the Strata Titles Act and will not be affected in any way by the new Community Titles legislation. A simple conversion process is provided for in Schedule 1 of the Bill to allow those strata corporations which wish to come under the Community Title legislation to do so, but there will be no compulsion in this regard.

Strata titles will still be available for vertical developments such as office blocks, and developments where there will be one lot above another. This will be achieved by a community strata plan.

8. Management Issues

As with the current Strata Titles Act, the deposit of a plan will see the statutory creation of a corporation to administer the common interests of the lot owners. This necessitates the establishment of rules that will govern this corporation and its members. While some features of the administrative systems in the Bill have come from the Strata Titles Act, other features have come from interstate legislation governing community titles. Some of the management issues are as follows:

· provision is made for the keeping of community corporation money in consolidated trust accounts that meet certain

standards. The standards set out in this Bill are those found in the recently passed Conveyancers Act and Land Agents Act. It is proposed that these provisions will be inserted into the Strata Titles Act by legislation amending that Act for the benefit of current strata unit owners.

- provision is made for community corporations to appoint persons to assist their officers and management committees in the discharge of their functions.
- provision is made for the delegation of certain powers and the dispute resolution sections cover the activities of persons acting under delegated authority.
- special provision has been made for insurance when the lots share a party wall or there is an easement for support or shelter.
- a regime is provided for the disclosure of the pecuniary interests of persons acting under delegated authority, and voting on behalf of others.
- Provision is made for audits, however, audits will not be required where aggregate contributions do not exceed an amount specified in the regulations and where the balance in the administrative and sinking funds does not exceed an amount prescribed.

9. Leaseback Provisions for Community Title Schemes.

The Bill deals with issues relating to the management of a scheme where there is a leaseback arrangement in force. A leaseback arrangement exists where all of the lots in a community parcel are subject to a lease to the same person. There have never been specific provisions in any South Australian Act dealing with leaseback arrangements. At present such arrangements are enforced through complex contractual and power of attorney arrangements. The provisions in this Bill will make for a clear delineation of powers and responsibilities between the owner and the person leasing the lots.

Basically, there are provisions to ensure that the lessee takes over all responsibility for maintenance and levies etc, and that the interests of the owner cannot be diminished by the actions of the lessee.

It is the hope of the Government that this legislation will open up the possibility for a range of innovative projects, encourage diversity in development , attract the interest of developers and allow land owners to better utilise their assets.

This Bill has already been subject to an extensive community debate, but will lie on the Table over the next 2 months for further public input.

Explanation of Clauses

PART 1

PRELIMINARY

The provisions of the Bill are as follows:

Clause 1: Short title

Clause 2: Commencement

Clauses 1 and 2 are formal.

Clause 3: Interpretation

Clause 3 provides definitions of terms used in the Bill. The unit into which land may be divided under the Bill is called a "lot" to distinguish it from an allotment which is the unit of division under Part 19AB of the *Real Property Act 1886*. The definition of "owner" defines a mortgagee who is in possession of the land to be the owner to the exclusion of the registered owner.

Clause 4: Associates

Clause 4 sets out the relationships that result in one person being an associate of another. "Associate" is used in clause 83 which provides that in residential schemes the developer, or an associate of the developer, cannot be nominated to vote on behalf of owners of lots.

Clause 5: This Act and the Real Property Act 1886 to be read together

Clause 5 provides that the *Community Titles Act* and the *Real Property Act 1886* will be read as a single Act. There is a similar provision in the *Strata Titles Act 1988*.

PART 2

SCOPE OF THE ACT

Clause 6: Nature of division under this Act

Clause 6 is the first clause in Part 2 of the Bill. The purpose of this Part is to summarise the effect of the following Parts of the Bill.

Clause 7: What land can be divided

Clause 7 provides for up to three tiers or levels of division on the one parcel of land. The initial division is into primary lots. The land divided must be an allotment (see Part 19AB of the *Real Property Act 1886*). One or more of the primary lots may be divided into secondary lots and one or more of those secondary lots may be divided by a tertiary plan into tertiary lots. It is not possible to divide a tertiary lot.

Clause 8: Development lots

If a developer wishes to divide a parcel in stages he or she may set aside part of the parcel as a development lot for division at a subsequent stage.

Clause 9: Strata division

Clause 9 provides for the strata division of a building in the same way as the *Strata Titles Act 1988*.

Clause 10: The community corporation

Clause 10 explains the role of the community corporation in a scheme of community division.

Clause 11: The scheme description

Clause 11 provides for the filing of a document called a scheme description with the community plan in the Lands Titles Registration Office. The purpose of the scheme description is to provide information about the scheme to persons considering the purchase of or other dealing with a lot.

Clause 12: By-laws

Clause 12 describes the function of by-laws in a community scheme.

Clause 13: Staged development and development contracts

Clause 13 outlines the manner in which a community parcel can be developed in stages.

PART 3

DIVISION OF LAND BY PLAN OF COMMUNITY DIVISION

DIVISION 1—APPLICATION FOR DIVISION

Clause 14: Application

Clause 14 sets out the technical requirements in relation to an application for division under the Bill. An allotment is an allotment under Part 19AB of the *Real Property Act 1886* and should not be confused with a lot under the Bill. The primary division of land under the Bill will always be division of an allotment or allotments. A primary lot created by such a division may itself be divided into secondary lots. A secondary lot may be divided into tertiary lots and common property. A tertiary lot cannot be divided.

Clause 15: Scheme description not required for certain small schemes

In the interests of reducing costs this clause removes the requirement to file a scheme description in relation to a small scheme. A small scheme is one of 6 lots or less or such other number as is prescribed by regulation.

Clause 16: Consents to application

Clause 16 requires the consent of interested persons referred to in the clause to an application for division.

Clause 17: Application in relation to part of the land in a certificate

Clause 17 ensures that on division of an allotment that constitutes only part of the land in a certificate of title the remaining land is of sufficient size to be dealt with as a separate parcel of land.

Clause 18: Status of plan and application

Clause 18 provides that an application for division and a plan will be regarded as a single document and will have priority over other documents lodged in the Lands Titles Registration Office in accordance with section 56 of the *Real Property Act 1886*. This provision is needed because the deposit of the plan may operate under clause 23 to vest an interest in land in a person in whom it was not previously vested.

Clause 19: Special provisions relating to strata plans

Clause 19 sets out provisions relating to strata plans. A strata plan is a plan of community division under the Bill that divides a building on an allotment or on or comprising a primary or secondary lot laterally and horizontally.

DIVISION 2—LOT ENTITLEMENT

Clause 20: Lot entitlement

Clause 20 deals with lot entitlements. Lot entitlements are used to determine the shares in which lot owners make monetary contributions to the community corporation and are responsible for liabilities of the corporation and the shares in which assets of the corporation are divided on cancellation.

Clause 21: Application to amend schedule of lot entitlements

Clause 21 provides for the amendment of the schedule of lot entitlements. An application for amendment must be supported by a unanimous resolution of the corporation. The consent of a person who was not a member of the corporation when the resolution was passed but who is the owner of a community lot (and therefore a member of the corporation) when the application is lodged with the Registrar-General is also required (subclause (4)*(a)*).

The consent of a prospective owner is required as well. A prospective owner is a person who will be the owner of a lot on registration of a transfer that had been lodged at the Lands Titles Registration Office before the application to amend the schedule of

lot entitlements was lodged. The consent of registered encumbrancees and prospective encumbrancees is also required. Subclause (5) requires the consent of these categories of interested persons where the scheme involves a secondary or tertiary tier of division.

DIVISION 3—DEPOSIT OF COMMUNITY PLAN

Clause 22: Deposit of community plan

Clause 22 provides for the deposit of a community plan in the Lands Titles Registration Office.

Clause 23: Vesting, etc., of lots, etc., on deposit of plan

Clause 23 provides for the vesting of land or an interest in land on deposit of a plan and for the discharge or extinguishment of an interest on deposit of a plan.

Clause 24: Easements for support, shelter, services and projections

Clause 24 provides for easements of support, shelter and services.

Clause 25: Easements in favour of Government instrumentalities

Clause 25 applies section 223lg of the *Real Property Act 1886*. This section provides for easements to the South Australian Water Corporation for water supply and sewerage services, easements for drainage to the local council and easements for the supply of electricity to ETSA Corporation.

Clause 26: Vesting of certain land in council, etc.

Clause 26 provides for the vesting of roads, streets, thoroughfares, reserves or similar open space shown on a plan (not being part of the common property or a lot) in the local council.

Clause 27: Encroachments

Clause 27 provides for situations where parts of a building encroach over neighbouring land.

DIVISION 4—COMMON PROPERTY

Clause 28: Common property

Clause 28 sets out provisions relating to the common property created on deposit of a plan. Each lot owner has an equitable interest in the common property of his or her scheme. The owner of a secondary or tertiary lot also has an equitable interest in the common property of the primary scheme or the primary and secondary schemes. The common property cannot be sold or mortgaged unless the community plan is amended to exclude part of the common property from the community parcel before it is sold or mortgaged. Subclause 9 provides that members of the public are entitled to have access to those parts (if any) of the common property to which they are shown as having access by the community plan.

PART 4

THE SCHEME DESCRIPTION

Clause 29: Scheme description

Clause 29 provides for the scheme description. This document describes the scheme and must be endorsed by the relevant planning authority. It will be particularly useful to persons considering the purchase of or other dealing with a lot before the scheme is completed. The scheme descriptions of secondary and tertiary schemes must be consistent with the scheme description of the primary scheme (see subclause (2)).

Clause 30: Amendment of scheme description

Clause 30 enables a scheme description to be amended. Consistency must be maintained with the by-laws and development contracts and the scheme descriptions, by-laws and development contracts of the secondary and tertiary schemes (if any).

Clause 31: Persons whose consents are required

Clause 31 requires the consent of certain persons to the amendment of the scheme description. The provision is similar to clause 21 relating to consent to an amendment to lot entitlements.

Clause 32: Amended copy of scheme description to be filed

Clause 32 requires the Registrar-General to file the amended copy of the scheme description with the plan of community division.

PART 5

BY-LAWS

Clause 33: By-laws

Clause 33 sets out the scope of by-laws.

Clause 34: By-laws may exempt corporation from certain provisions of the Act

Clause 34 enables by-laws to exclude some of the requirements of the Bill that are not suitable for two and three lot schemes.

Clause 35: By-law as to the exclusive use of part of the common property

Clause 35 enables by-laws to provide for the exclusive use of part of the common property by the occupier of one or more lots.

Clause 36: Restrictions on the making of by-laws

Clause 36 prevents by-laws from restricting an owner in dealing with his or her lot except for leasing the lot for short periods.

Clause 37: Certain by-laws may be struck out by Court

Clause 37 enables the Magistrates Court or the District Court to strike out a by-law that unfairly discriminates against the owner of a lot.

Clause 38: Variation of by-laws

Clause 38 provides for the variation of by-laws by special resolution of the community corporation. By-laws must be consistent with the scheme description which limits the scope for amendment.

Clause 39: Date of operation of by-laws

Clause 39 provides for the date of operation of by-laws.

Clause 40: Invalidity of by-laws

Clause 40 provides that by-laws must not be inconsistent with the Bill or any other Act or subordinate legislation or with the other elements of the scheme such as the scheme description and the development contract (if any).

Clause 41: Application of council by-laws

Clause 41 ensures that council by-laws that apply only in a public place do not apply in those parts of a community parcel to which the public have access.

Clause 42: Persons bound by by-laws

Clause 42 sets out the classes of persons who are bound by the by-laws.

Clause 43: Availability of copies of by-laws

Clause 43 provides that copies of the by-laws must be made available for purchase by owners and occupiers of lots and persons considering entering into a transaction in relation to a lot.

Clause 44: By-laws need not be laid before Parliament or published in Gazette

Clause 44 excludes the operation of sections 10 and 11 of the *Subordinate Legislation Act*. This means that by-laws will not be laid before the Houses of Parliament and will not need to be published in the *Gazette*.

PART 6

DEVELOPMENT CONTRACTS

Clause 45: Interpretation

Clause 45 defines "developer" for the purposes of Part 6 of the Bill.

Clause 46: Development Contracts

Clause 46 provides for the purpose, form and content of development contracts. Subclause (5) provides that the work and materials supplied under a development contract will be to the highest standard unless otherwise provided in the contract.

Clause 47: Consistency of development contract with scheme description and by-laws

Clause 47 requires that a development contract must not be inconsistent with the scheme description or the by-laws.

Clause 48: Enforcement of a development contract

Clause 48 sets out the persons who are taken to be parties to a development contract and who are therefore able to take proceedings for its enforcement.

Clause 49: Variation or termination of development contract

Clause 49 provides for the variation or termination of a development contract. The community corporation's agreement must be authorised by a special resolution.

Clause 50: Inspection and purchase of copies of contract

Clause 50 provides for inspection and purchase of copies of development contracts.

PART 7

AMENDMENT, AMALGAMATION AND CANCELLATION OF PLANS

DIVISION 1—AMENDMENT OF COMMUNITY PLANS

Clause 51: Application for amendment

Clause 51 provides for an application to the Registrar-General to amend a plan of community division. Many of the documents required when applying for the initial division of the land must be filed with an application for amendment.

Clause 52: Status of application for amendment of plan

Clause 52 provides that an application for amendment has the same status as an instrument under the *Real Property Act 1886* and has priority over other instruments in accordance with section 56 of that Act. This provision is necessary because under clause 54 interests in land may be vested or discharged on amendment of the plan. Clauses 18 and 23 are the corresponding clauses in relation to the deposit of a plan of division under Part 3.

Clause 53: Amendment of the plan

Clause 53 provides for the amendment of a plan by the Registrar-General.

Clause 54: Vesting of interests on amendment of plan

Clause 54 provides for the vesting and discharge of interests in land by the amendment of a plan. This provision and clause 23 are similar to section 223l of the *Real Property Act 1886*.

Clause 55: Merging of land on amendment of plan
Clause 55 provides for the extension or discharge of encumbrances on merging of land as the result of the amendment of a plan.

Clause 56: Alteration of boundaries of primary community parcel
Clause 56 provides for the combining of an application to amend a plan with an application under Part 19AB of the *Real Property 1886* where part of an allotment is to be included in the community parcel or land is to be removed from the parcel. This will avoid the need for a separate application under Part 19AB.

Clause 57: Amendment of plan pursuant to a development contract
Clause 57 provides for the situation where the developer is required by a development contract to apply to the Registrar-General for the division of a development lot. To do this the developer must apply for the amendment of the community plan.

Clause 58: Amendment by order of District Court
Clause 58 sets out the limited circumstances in which the persons listed in subclause (2) may apply to the District Court for an order that a community plan be amended.

DIVISION 2—AMALGAMATION OF COMMUNITY PLANS

Clause 59: Amalgamation of plans
Clause 59 provides for the amalgamation of community plans. Only plans for the same kind of scheme can be amalgamated. A primary plan can only be amalgamated with another primary plan; a secondary plan with a secondary plan and a tertiary plan with a tertiary plan.

Clause 60: Persons whose consents are required
Clause 60 provides for the consent of other persons to an application for amalgamation.

Clause 61: Deposit of amalgamated plan
Clause 61 provides for the deposit of the amalgamated plan. The plans it combines are cancelled, the community corporations are dissolved and their assets and liabilities become assets and liabilities of the new corporation.

Clause 62: Effect of amalgamation on development contracts
Clause 62 explains that amalgamation has no effect on development contracts except to increase the number of persons who can enforce them.

DIVISION 3—CANCELLATION OF COMMUNITY PLANS

Clause 63: Cancellation by Registrar-General or Court
A community plan can be cancelled on application to the Registrar-General or by order of the court. A secondary and tertiary plan that form part of the same primary scheme must be cancelled before the primary plan is cancelled.

Clause 64: Application to the Registrar-General
Clause 64 sets out requirements in relation to the application. Where a development lot is included in the plan a schedule of lot entitlements that include the development lot must be prepared to determine the shares in which the community parcel will be held on cancellation.

Clause 65: Persons whose consent is required
Clause 65 provides for the consent of other persons to the proposed cancellation.

Clause 66: Application to the Court
Clause 66 provides for an application to be made to the District Court for an order cancelling a community plan.

Clause 67: Lot entitlements
Clause 67 sets out the requirements for lot entitlements where a development lot is included in the plan.

Clause 68: Cancellation
Clause 68 sets out the effect of cancelling a community plan.

PART 8
DIVISION OF PRIMARY PARCEL UNDER PART 19AB

Clause 69: Division of primary parcel under Part 19AB
Clause 69 provides for the division of a primary parcel under Part 19AB of the *Real Property Act 1886.* If this clause were not included it would be necessary to apply to the Registrar-General for cancellation of the plan and then apply under Part 19AB for division of the land. This clause provides an efficient short cut.

PART 9
THE COMMUNITY CORPORATION
DIVISION 1—ESTABLISHMENT OF THE CORPORATION

Clause 70: Establishment of corporation
Clause 70 provides for the establishment of the community corporation on deposit of a plan of community division.

Clause 71: Corporate nature of community corporations
Clause 71 sets out the corporate characteristics of a community corporation.

Clause 72: The corporation's common seal
Clause 72 provides for the common seal of the corporation.

Clause 73: Members of corporation
Clause 73 provides that the owner of the community lots are the members of the corporation.

Clause 74: Functions and powers of corporations
Clause 74 sets out the functions and powers of corporations.

Clause 75: Presiding officer, treasurer and secretary
Clause 75 provides for the appointment and term of office of the presiding officer, treasurer and secretary of corporations.

Clause 76: Corporations's monetary liabilities guaranteed by members
Clause 76 provides that the members of a community corporation are personally liable for the debts of the corporation.

Clause 77: Non-application of Corporations Law
Clause 77 excludes the operation of the Corporations Law in relation to community corporations.

DIVISION 2—GENERAL MEETINGS

Clause 78: First general meeting
Clause 78 provides for the convening of the first general meeting of a corporation.

Clause 79: Business at the first general meeting
Clause 79 provides for the business to be dealt with at the first general meeting and requires the developer to deliver certain documents to the corporation at the first meeting.

Clause 80: Convening of general meetings
Clause 80 provides for the convening of other general meetings.

Clause 81: Annual general meeting
Clause 81 sets out the times by which the annual general meeting must be held.

Clause 82: Procedure at meetings
Clause 82 sets out various matters relating to the procedures at general meetings.

Clause 83: Voting at general meetings
Clause 83 sets out various provisions relating to voting at general meetings.

Clause 84: Nominee's duty to disclose interest
Clause 84 requires a person who has been nominated to vote on another's behalf to disclose any pecuniary interest that he or she has in a matter on which he or she will be casting a vote.

Clause 85: Voting by a community corporation as a member of another community corporation
Clause 85 enables a secondary or tertiary corporation to vote if authorised to do so by resolution of its members. Subclauses (2) and (3) set out the circumstances in which such an authorisation is sufficient to support a unanimous or special resolution of the primary or secondary corporation.

Clause 86: Value of votes cast at general meeting
Clause 86 sets out the value to be given to votes at meetings of a corporation.

Clause 87: Special resolutions—three lot schemes
Clause 87 is a special provision for special resolutions in three member schemes.

Clause 88: Revocation, etc., of decisions by corporation
Clause 88 explains that a decision of a community corporation made by a particular kind of resolution (unanimous, special or ordinary) may be varied or revoked by a resolution of the same kind.

DIVISION 3—MANAGEMENT COMMITTEE

Clause 89: Establishment of management committee
Clause 89 provides for the establishment of a management committee of a community corporation.

Clause 90: Term of office
Clause 90 provides that the term of office of committee members must expire at or before the next annual general meeting of the corporation.

Clause 91: Functions and powers of committees
Clause 91 sets out the powers of committees. A committee cannot make any decision that requires a special or unanimous resolution.

Clause 92: Convening of committee meetings
Clause 92 makes provision for the convening of meetings of management committees.

Clause 93: Procedure at committee meetings
Clause 94 includes a number of provisions relating to the procedures to be followed at committee meetings.

Clause 94: Disclosure of interest
Clause 94 requires a member of a committee to disclose any pecuniary interest that he or she has in a matter being considered by

the committee. The penalty is significant—a maximum fine of $15 000. The general defence provision (clause 151) provides that it is a defence to an alleged offence to prove that the alleged offence was not committed intentionally and did not result from any failure to take reasonable care to avoid its commission.

Clause 95: Members' duties of honesty

Clause 95 requires members of committees to act honestly and not make improper use of their position as committee members. Once again the maximum fine is $15 000.

Clause 96: Casual vacancies

Clause 96 provides for the filling of casual vacancies on a committee.

Clause 97: Validity of acts of a committee

Clause 97 is a standard clause providing that a vacancy in membership or a defect in the appointment of a member does not affect the validity of the committee's actions.

Clause 98: Immunity from liability

Clause 98 protects committee members from acts or omissions that are not dishonest or negligent.

DIVISION 4—APPOINTMENT OF ADMINISTRATOR

Clause 99: Administrator of community corporation's affairs

Clause 99 provides for the appointment of an administrator of the community corporation by the District Court on the application of a person listed in subclause (1).

PART 10
PROPERTY MANAGEMENT
DIVISION 1—POWERS OF CORPORATION TO MAINTAIN INTEGRITY OF THE COMMUNITY SCHEME

Clause 100: Power to enforce duties of maintenance and repair, etc.

Clause 100 enables a community corporation to enforce lot owners to comply with their duty to maintain or repair buildings or improvements on lots or to carry out other work for which they are responsible. As a last resort the corporation may arrange for the work to be done at the cost of the lot owner.

Clause 101: Alterations and additions in relation to strata schemes

Clause 101 relates to unauthorised work in relation to strata lots.

DIVISION 2—INSURANCE

Clause 102: Insurance of buildings, etc., by community corporation

Clause 103: Other insurance by community corporation

Clause 104: Application of insurance money

Clauses 102, 103 and 104 set out obligations of the community corporation in relation to insurance.

Clause 105: Insurance to protect easements

Where a building on a lot provides support or shelter pursuant to an easement under the Bill, this clause requires the owner of the lot to insure the building.

Clause 106: Offences relating to failure to insure

Clause 106 requires the developer to take out insurance initially on behalf of the corporation (subclause (1)). The remaining subclauses provide that a lot owner must not sell a lot unless the insurance required to be taken out by the corporation has been taken out or the owner has informed the purchaser that the insurance has not been taken out.

Clause 107: Right to inspect policies of insurance

Clause 107 sets out the rights of owners and mortgagees to inspect policies of insurance.

Clause 108: Insurance by owner of lot

Clause 108 preserves the right of the owner of a lot to insure generally and to insure in connection with a mortgage over the lot.

DIVISION 3—EASEMENTS

Clause 109: Easements

Clause 109 relates to the creation or extinguishment of easements over or for the benefit of the common property.

DIVISION 4—LEASING OF COMMON PROPERTY AND LOTS

Clause 110: Limitations on leasing of common property and lots

Clause 110 places restrictions on granting rights to occupy the common property or a lot.

DIVISION 5—ACQUISITION OF PROPERTY FOR BENEFIT OF OWNERS AND OCCUPIERS OF LOTS

Clause 111: Acquisition of property

Clause 111 provides that a community corporation may acquire a freehold or leasehold interest in land.

PART 11
FINANCIAL MANAGEMENT
DIVISION 1—GENERAL

Clause 112: Statement of expenditure

Clause 112 requires that a statement of estimated expenditure and the amount required to be raised by contributions be presented to each annual general meeting of a community corporation.

Clause 113: Contributions by owners of lots

Clause 113 provides for the payment of contributions by members of the community corporation. The contributions will be shared in proportion to the lot entitlements of the lots.

Clause 114: Cases where owner not liable to contribute

The owner of a lot is not required to contribute to the payment of a debt by the corporation to the owner.

Clause 115: Administrative and sinking funds

Clause 115 provides for the establishment of administrative and sinking funds.

Clause 116: Disposal of excess money in funds

Clause 116 enables excess money in the funds to be distributed to the owners of the community lots.

Clause 117: Power to borrow

Clause 117 gives a corporation express power to borrow money or obtain other forms of financial accommodation.

Clause 118: Limitation on expenditure

Clause 118 places a limitation on the expenditure of money without the authorisation of a resolution of the corporation.

DIVISION 2—AGENT'S TRUST ACCOUNTS

Clause 119: Application of Division

Clause 119 provides that Division 2 of Part 11 (dealing with agents' trust accounts) applies when a community corporation has delegated to a person the power to receive and hold money on behalf of a community corporation.

Clause 120: Interpretation

Clause 120 defines terms used in Division 2.

Clause 121: Trust money to be deposited in trust account

An agent is required to have a trust account and to pay all trust money into it. Money includes any cheque received by the agent on behalf of the corporation.

Clause 122: Withdrawal of money from trust account

Money may be withdrawn from a trust account only for the purposes set out in this clause.

Clause 123: Authorised trust accounts

Clause 123 sets out the kinds of accounts that are authorised for the purposes of holding trust money.

Clause 124: Application of interest

Clause 124 requires interest to be apportioned where money is held in one account for two or more corporations.

Clause 125: Keeping of records

An agent is required to keep detailed trust account records and to provide receipts to clients. The records are required to be kept for at least five years.

Clause 126: Audit of trust accounts

An agent's trust account must be regularly audited and a statement relating to the audit must be lodged with the corporation.

Clause 127: Obtaining information for purposes of audit or examination

An auditor of an agent's trust account is given certain powers with respect to obtaining information relating to the account.

Clause 128: Banks, etc., to report deficiencies in trust accounts

The report is to be made to the Minister.

Clause 129: Confidentiality

Confidentiality is to be maintained by the auditor.

Clause 130: Banks, etc., not affected by notice of trust

Financial institutions are not expected to take note of the terms of any specific trust relating to a trust account but are not absolved from negligence.

PART 12
OBLIGATIONS OF OWNERS AND OCCUPIERS

Clause 131: Interference with easements and services

Clause 131 provides that an owner or occupier of a lot must not interfere with support or shelter for another lot or the common property or with the service infrastructure.

Clause 132: Nuisance

Clause 132 provides that the owner or occupier of a lot must not cause a nuisance or interfere unreasonably with the use or enjoyment of another lot or the common property.

Clause 133: Maintenance of lots

Clause 133 provides for the maintenance of lots.

PART 13
RECORDS, AUDIT AND INFORMATION TO BE PROVIDED BY CORPORATION
DIVISION 1—RECORDS

Clause 134: Register of owners of lots
Clause 134 requires a community corporation to maintain a register of the names and addresses of the owners of lots.

Clause 135: Records
Clause 135 requires proper records to be made and kept by a community corporation.

Clause 136: Statement of accounts
Clause 136 requires a corporation to prepare a statement of accounts in respect of each financial year.

DIVISION 2—AUDIT

Clause 137: Audit
Clause 137 provides for the auditing of the annual statement of accounts.

DIVISION 3—INFORMATION TO BE PROVIDED BY CORPORATION

Clause 138: Information to be provided by corporation
Clause 138 enables the owner or prospective owner of a lot or a mortgagee or prospective mortgagee of a lot to obtain information from the community corporation that is relevant to his or her interest in the lot.

Clause 139: Information as to higher tier of community scheme
Clause 139 enables the owner or prospective owner of a secondary or tertiary lot or the mortgagee or prospective mortgagee of a secondary or tertiary lot to obtain information under clause 138 from the primary corporation or the primary and secondary corporations.

PART 14
RESOLUTION OF DISPUTES

Clause 140: Persons who may apply for relief
Clause 140 lists the persons who may apply for relief under Part 14 of the Bill.

Clause 141: Resolution of disputes, etc.
Clause 141 provides for an application to the Magistrates Court in the circumstances referred to in subclause (1). An application may be made to the District Court with the leave of that Court. Either court may transfer the application to the Supreme Court if it raises a matter of general importance.

PART 15
MISCELLANEOUS

Clause 142: Corporation may provide services
Clause 142 enables a community corporation to provide and charge for services to the owners and occupiers of lots.

Clause 143: Preliminary examination of plan by Registrar-General
Clause 143 provides that the Registrar-General may make a preliminary examination of a plan to be lodged with an application under the Bill.

Clause 144: Filing of documents with plan
There are a number of provisions in the Bill requiring the Registrar-General to file documents with the relevant plan of community division so that they are available for public inspection. The purpose of this clause is to accommodate the fact that in many cases the documents will be held electronically and not filed as a hard copy.

Clause 145: Entry onto lot or common property
Clause 145 provides for entry onto lots and the common property in emergencies and other circumstances.

Clause 146: Owner of lot under a legal disability
Clause 146 provides for the exercise of the rights of the owner of a lot who is under a disability and enables the District Court to dispense with the consent, etc., of such an owner which would otherwise be required under the Bill.

Clause 147: Relief where unanimous or special resolution required
Clause 147 enables the District Court to declare that a resolution of a corporation that is not a unanimous or special resolution to have that status for the purposes of the Bill. This provision will be particularly useful where the owner of a lot is unreasonably voting against a resolution.

Clause 148: Stamp duty not payable in certain circumstances
Clause 148 provides that stamp duty is not payable on the vesting or divesting of property on the creation or dissolution of a community corporation.

Clause 149: Destruction or disposal of certain documents
Clause 149 requires the Registrar-General to keep superseded documents for six years. After that period they may be destroyed.

Clause 150: Vicarious liability of management committee members
Clause 150 provides that where a corporation commits an offence the members of its management committee are vicariously liable for the offence.

Clause 151: General defence
Clause 151 provides a general defence.

Clause 152: Procedure where the whereabouts of certain persons are unknown
Clause 152 provides a means of dispensing with the consent of a person if the whereabouts of the person cannot be ascertained.

Clause 153: Service
Clause 153 provides for the service of notices.

Clause 154: Regulations
Clause 154 provides for the making of regulations.

Schedule 1
Schedule 1 sets out transitional provisions. Clause 2 of the schedule enables a strata corporation under the *Strata Titles Act 1988* by ordinary resolution to decide that the new Act will apply to, and in relation to, the corporation and the strata scheme.

Schedule 2 sets out model by-laws for a community scheme comprising traditional quarter acre housing lots and common property. They provide a detailed example of how the by-law making power may be used but are not intended to provide a model that can be adopted by a scheme without alteration.

The Hon. CAROLYN PICKLES secured the adjournment of the debate.

OFFICE FOR THE AGEING BILL

Adjourned debate on second reading.
(Continued from 28 November. Page 625.)

The Hon. T.G. CAMERON: The Australian Labor Party supports this Government Bill, which establishes an Office for the Ageing and the Advisory Board on Ageing and repeals the Commissioner for the Ageing Act 1984. I do not have a great deal to say in relation to this Bill, except that I support all the sentiments expressed by the shadow Minister, Lea Stevens, in another place. I express a similar concern to the shadow Minister, and I am a little puzzled why we need a new Act of Parliament. However, consultation with the various people in the industry has indicated that there is general support for the changes that are being proposed in this Bill throughout the ageing organisations.

The Opposition supports the Bill, but I have a question to ask the Minister, who has been most helpful to me on a number of occasions when I have sought information. A number of complaints have been made to me regarding the operation of retirement villages and aged homes in South Australia which are owned and operated by the Adelaide Bank through a myriad of subsidiary companies. Will the Minister point me in the right direction as to which Government Minister I should speak in relation to those complaints?

The Hon. DIANA LAIDLAW (Minister for Transport): I thank the Hon. Sandra Kanck and the Hon. Terry Cameron for their contributions to this debate and for their recognition of the importance of the issues that this Bill seeks to address in terms of input from older people in our community to the 10-year plan for aged services, as well as a number of other initiatives that will be promoted by the new advisory board on ageing.

In respect of the query from the Hon. Mr Cameron about the need for the Act, the Minister in the other place canvassed with a number of groups and individuals the issue of changing focus. All of them wanted a reassurance that there would continue to be an Act. I accept, however, that it is odd in terms of Government structures, where an office is

established, that it would be seen as a statutory office with the backup of legislation. Nevertheless, that was the wish of the groups and individuals whom this Bill is designed to serve and, therefore, it was seen as appropriate that the office be established by this means.

Over the years there have been many complaints about retirement villages. I have been very pleased that on all occasions they were matters with which the Attorney-General had to deal in terms of the Retirement Villages Act. That Act was initially introduced by the former Government, with the Hon. Chris Sumner sponsoring the legislation. So, it is in that area that I would direct the honourable member.

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

WATER RESOURCES (IMPOSITION OF LEVIES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 22 November. Page 543.)

The Hon. T.G. ROBERTS: I rise to indicate that the Government still has some problems—

The Hon. Diana Laidlaw: The Government or the Opposition?

The Hon. T.G. ROBERTS: The Government still has some problems, and I will outline them. They were relayed through the Opposition but the time frames and the introduction of the Bill are still in the hands of the Government. When the levy idea, together with the setting up of water catchment boards, was first introduced by the Government to rehabilitate the waters of the Lower Murray in the Riverland area, the Opposition indicated that a lot of consultation would have to take place and that there may be some problems in applying a levy, tax or a charge on Riverland users equitably.

Unfortunately, the Bill is before us while there is still a lot of confusion in the Riverland area. As recently as yesterday I was notified that the members of the steering committee, which had been set up to drive the consultation process and the management program between the Government, the consumers and the users of the water in the Riverland area, had resigned because they were not prepared to play the role that the Government expected of them. Basically, that role was to administer the application of the formula after the Government had developed the formula in isolation from the community, and therein lies the problem.

According to steering committee members, the committee had been set to work with the Government to develop the Bill and the formula for its application. The Government has made its decision to move the Bill forward and, as it is a mechanistic Bill, the application of the formula will flow from the Government's developed position. The impact of the Government's own actions in relation to how it applies and develops it falls squarely on its head. The Opposition takes no responsibility for the process. I have not spoken to the Democrats this morning but I suspect that they may take the same position. We will support the second reading of the Bill and the facilitation of the Committee stages, but we signal very strongly to the Government that it needs to put that steering committee and the community consultation mechanisms back in place, because there will be some very angry people in the Riverland, as indicated by telephone calls and conversations that have taken place with people on the ground.

I asked those who contacted me why they had not spoken out earlier about this and whether they had let the Government know that they were not happy with the way in which the process had been put together. It appears that there had been a bottling up process and that a lot of the fermentation of dissent that was occurring in the Riverland was being held to local meetings. Not a lot of information was being passed. I should have thought that the Government might have more contacts on the ground to enable it to analyse the implications of what those community leaders were saying; but, as I have said, it is a bit late now. We have given a commitment to facilitate the Bill.

However, I would strongly advise the Government, because it would be good politics and a sound management strategy, to get a negotiating team into the Riverland in order to allay some of the fears that people and the steering committee, which is made up of local mayors, people from Landcare and which has environmental inputs from organisations and individuals, may have.

I understand that there was no consultation during the formulation of the levy and nobody knows how much it will cost. Indications of 1¢ a kilolitre are floating around. Another point that people in the Riverland are making is that there has not been any consultation not only on the formula, but on the amount to be fixed. That was not discussed broadly within those consultation groups. They are expecting that 1¢ per kilolitre will be applied, that it will not be applied on rate or capital value, and that there will be an increase in water costs and perhaps no increase in returns. That is a management problem that the Government needs to address.

I listened to the debate in the other place when the Bill was introduced. Most of the arguments were as to whether the imposition of 1¢ per kilolitre was a levy, a tax or a charge. I would argue that it is part of an increase in taxes by another name—a levy. Whether we call a levy, a tax or a charge, regardless of the semantics, people in the Riverland, in the Iron Triangle and in the Upper South-East will be paying more for their water.

The Hon. M.J. Elliott interjecting:

The Hon. T.G. ROBERTS: There is a strong rumour that the imposition of the levy will be more broadly based and put on users of River Murray water in the metropolitan area. It may be that some reservoirs do not use River Murray topping and may incur no charge. I am not quite sure about that. That is the difficulty that people have in coming to terms with the implications associated with its application. My advice is that there should be more consultation, figures and solid material put into the community so that people may know where the water catchment levies are taking us. As I have pointed out before, people in some catchment areas are paying two levies, whereas others who are not in a catchment or rehabilitation area are paying nothing. The application of the levy, tax or charge is not equitable, and the implications regarding the application of the levy are not being addressed by the Government.

Another problem relayed to me by people in the Riverland is that there will be reluctance to trust the Government, even if it sets up an on-ground consultation process. They believe that the steering committee and the community-based negotiating committees were in the process of carrying out the community consultation and would be getting back to the Government some time in February when they thought they would have completed their task.

The Hon. M.J. Elliott interjecting:

The Hon. T.G. ROBERTS: This is the steering committee of the Water Catchment Management Board that had been set up. Some members of it were operating on the basis that it would take at least until February to hold discussions and get the agreements that the Government was looking for. If the Government had been more patient and attentive to what was happening on the ground, I think it may have got general agreement by February for the formula to be set and the application of the levy to be put in place without the trauma that we now have. As I said, it would be a good, sound and wise move for the Government to put a negotiating team into the Riverland to make sure that the application is supported. It would be tragic if the River Murray clean-up program was put on hold or diverted because lack of attention to negotiations and consultation overrode the cooperation required for the application to be made.

A further concern expressed to me—and I think it should have been put to rest through negotiations at local level—is that people are not quite sure how much the levy will raise. They were looking at between $750 000 and perhaps $4 million to $5 million, and they were not sure what engineering or remediation projects were to be put in place. I should have thought that it would make sound sense for a consultative committee to have some idea about the outcomes so that it could get a clearer idea of how much money the Government was looking to raise.

I suspect that, if and when the Bill is passed and proclaimed, the Government will need to do a lot of work to get the confidence of local people to the point where it can put the consultative committee back in order to reform the negotiation process. In that way the mayors, the managers of Land Care and the environmental groups and organisations that exist between the Lower Murray and the Upper Murray areas can meet the Government on an equal footing and ensure that they are not seen as an adjunct to a process that becomes a buffer between the Government and the community for selling unpopular programs to local communities to give the impression that democracy is at work.

Democracies are fairly painful at times as regards the amount of work that has to be done to get it right, but in this case it would appear that the Government has a real public relations problem. Although it is not an Opposition problem, we have to ensure that the complaints of people in the Riverland are raised and heard in this place during the negotiations that have to take place. Whenever any of these groups or organisations contact us about the application of the formula or the method of applying the levy, we will take up those matters. If they are inequitable in any way or if the application of the funds to remediation programs involve a high-tech engineering solution when local people may be advocating a low-tech natural solution, we shall be highlighting those matters in this place and drawing the Government's attention to the fact that it cannot bypass local negotiations. If it is proposing to set up water catchment management boards and community consultation programs, it cannot ride roughshod over them.

We support the second reading of the Bill and will support it in Committee. However, we would like the Government to address the problems that I have outlined. It may be that in the past 24 hours the Minister has been able to contact the Riverland steering committee and put its fears to rest. At this point, that has not been relayed back to me by the steering committee, so I would advise the Government to make some commitment towards doing that.

The Hon. M.J. ELLIOTT: I support the second reading. Before I comment on the substance of the Bill, I make some comment on the consultation processes. This Bill was introduced into the other place about two weeks ago and the Government said, 'This is terribly important; we want to get it through.' Looking at the substance of the Bill, we said, 'Yes, it is important and we are prepared to facilitate that.'

I must say I was shocked when I made contact with the Farmers Federation on Monday to hear its concerns. It had no idea that the Bill was going through before Christmas—it had been given no indication whatsoever—and it wanted a number of changes. I note that we now have on file a number of amendments from the Government. The only reason that those amendments are on file is that I contacted the Farmers Federation and it was alerted that the Bill was moving so quickly; it then contacted the Government. That is the quality of information being given to the public and it adds to what the Hon. Mr Roberts has said.

When I met with the Minister when he first flagged that this was coming in only a couple of weeks ago, I also indicated to him that there was concern in the community among people who would normally support the concept. Take the case of a number of soil conservation boards, two of which I attended and, in fact, launched their management plans. Much of the work that has been done in the management plans of the soil boards is directly overlapping what is happening under the sorts of proposals that the Government has here. Yet, they have had no consultation whatsoever as to the potential impacts of this legislation and the future interrelationship between structures under this Act and the structures presently in place under the Soil Conservation Act. This is total adhockery. The Government has had a bright idea and, I think, a correct idea in terms of realising that water resources need to be given a higher priority, that we have real problems with quantity and quality of water in South Australia. Although it is right about that, it has failed comprehensively in terms of being inclusive, involving the community, and making sure it has things right. I would say, here and now, that I would be most surprised if within three months we are not standing in this Chamber making further amendments to this Act because the Government did not get it right this time, because it was done in such a hurry and particularly because it consulted so poorly.

I also have on file some amendments of my own. They are largely of the sort which make it clear that when levies and various other actions are carried out they are subject to regulation. We are introducing the capacity for levies that previously did not exist and I, for one, would like to keep a close check on it to ensure that it does not become a new form of taxation as distinct from a way by which levies are raised for a particular purpose and a very important purpose. My amendments have that principal goal in mind.

The Hon. BERNICE PFITZNER secured the adjournment of the debate.

ENVIRONMENT PROTECTION (FORUM REPLACEMENT) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 22 November. Page 543.)

The Hon. M.J. ELLIOTT: I support the second reading of the Bill and indicate that the changes the Government is now making are a direct consequence of what we predicted

when the legislation went through. Just as with the last Bill where I predict we will be back in three months to patch things up, when the Environment Protection Act went through in September 1993 I said that there were particular structures that were set up which would not work and which would have to be changed. I said in September 1993:

> I believe that the Government also overstates the importance of the environmental forum. I believe that the forum will be one of the great white elephants of the next decade. It will fail dismally, for a couple of reasons. The forum is such a large committee, trying to cover such a wide range of issues, that I believe it will be absolutely incapable of having a sensible discussion across its membership on any particular issue as it is a generalist committee. If one sought to have a discussion about the marine environment, one would be lucky to find out of the forum of 20 members perhaps three or four of them who really understood that issue in the way that the Marine Environment Protection Committee currently does.

The Hon. T.G. Roberts interjecting:

The Hon. M.J. ELLIOTT: I am quoting myself. I will not quote extensively, but if you want me to I will keep going. At the time I said, quite clearly, that I believed the forum was not capable of doing the job that was being asked of it and said that after a couple of years people would say that it was an absolute waste of time and why bother being involved with it. I understand that that is precisely what has happened to the forum and the Government now has legislation in here to dissolve the forum which proved to be a waste of time and which did not achieve anything of great value.

If I do express some concern, it is that at the time the EPA Act went through I called for the use of specialist committees. At that time, we abolished the Marine Environment Protection Act, yet the Marine Environment Protection Committee was doing a lot of valuable work. I called on the then Labor Government to consider maintaining the committee, under the auspices of the Environment Protection Authority, and that it should also consider setting up a series of other specialist committees to provide advice in waste management, soil care or whatever matters come under the purview of the EPA. If there is a disappointment, it is that the Government has not followed that path more closely and perhaps entrenched that sort of structure under the EPA. With those words, all I can say is: I told you so; it has happened; and I am supporting the Bill.

The Hon. T.G. ROBERTS: We support the Bill as well, for similar reasons to those that the Democrats have outlined. I have no quotes that I can put into *Hansard* quoting myself about any wise statements that I have made

The Hon. R.R. Roberts: And you would be too modest to do it, anyway!

The Hon. T.G. ROBERTS: True. For the same reasons as the Minister has outlined, the forum that now exists with 20 members is unwieldy in relation to specialist advice that is required from time to time. I must say that with the setting up of the management catchment boards and the input that community groups and organisations are starting to make to them, once they work out the dates and times by which they meet, there will be a lot of community pressure to influence outcomes from those boards. At the moment there is a bit of frustration with the management boards in that the advertised times are a little bit difficult to find in some of the papers and some community groups and organisations are having trouble in getting to the meetings.

I suspect that the longer they run, the more familiar people will become with their timeframes and their meeting places so that the boards will then have to take into account more information that is put to them by local groups. In some cases, the local groups being set up have specialist knowledge from an academic base. In other cases it is information which is passed on and which has been built up over a long period of time by lay people.

Certainly, a lot of people are taking more interest in trying to protect the environment from over exploitation and for the purposes of rehabilitation. Local community groups and organisations certainly have a lot of good ideas but, in many instances, those ideas are fraught with danger. Those discussions will ultimately take place at a local level, and it will then be up to the Government to determine what input from community groups and organisations it will take on board. I have been critical of the bureaucratic structure that has been set in place for the consultation process.

Consultation does not mean the Government putting a policy development back through the board or local government structures to try to overcome the difficulties experienced by local communities and organisations. That view has been put to me on a couple of management board committees which were set up in the early stages. People will learn as they go along that it does not pay to try to override the inputs made by lay professional people at a local level. The specialist advisory committees set up by the Government can probably liaise more closely with those committees than a forum of 20 members with broad-based knowledge.

If I were the Government I would have the new advisory committees liaising with community groups and organisations to take on board what those groups and organisations are saying. Having some experience dealing with bureaucrats and political agendas that result from a development rather than an environmental base, people will be wrestling with individual agendas to try to get one over the other. Experience will show—and I am about to make the prediction that the Hon. Mr Elliott so accurately made in the previous forum, that I hope I can quote at a later date—that if the advisory committees set up by the Minister do not take the side of environmental protection, and the Government tries to put aside contributions and does not use them in a positive way to negotiate with local community groups and organisations on a totally integrated management plan around environmental rehabilitation or protection, then those committees are doomed to fail.

If the Minister is defeated continually in the Cabinet by the development portfolios of other Ministers, then it does not matter what advice, scientific evidence or environmental protection recommendations are put to him by specialist groups and organisations with the best intentions. If they are continually overridden by a development strategy being run by the Premier's Department, or mining, or any other portfolio, then those community groups that would be relying on the specialist information coming from those consultation committees into the Minister's office—and, hopefully, being the overriding principle by which outcomes are decided—will get very angry. We have one before us already: the steering committee that was set up in the Riverland. Members of that committee felt that their input was being overlooked or ignored and they have resigned. The Minister has good intentions, and the Minister certainly has my confidence in the way he is managing his portfolio.

The Hon. M.J. Elliott: The Premier is driving this Bill.

The Hon. T.G. ROBERTS: Yes. The Minister is committed to community consultation and is committed to good outcomes but, unfortunately, he is overridden by the Premier's Department and other Ministers in the Cabinet. The

point that the Hon. Mr Elliott and I are making is that if the environment is to be the starting point for all outcomes, and not development, then the outcomes will be positive in relation to how community groups and organisations perceive the issue of rehabilitation and protection of the environment. If development becomes the key driving force for all matters to be considered subsidiary to the development outcomes then, I am afraid, the Minister will have a lot of difficulty in getting his agenda of protecting and rehabilitating the environment into the local communities and organisation and in holding their confidence.

It is a double-edged sword. The process needs to be transparent; it needs to be seen to be realistic and to be genuine; and the outcomes and the consultation processes need to be done in an open and honest way, with equal weighting given to lay groups in the community as well as specialist and scientific evidence being provided. If ever a community consultation process should have been listened to it was that in relation to the Patawalonga/West Beach community group, which predicted that there would be a major outbreak of algae and that the beaches between Glenelg and Henley Beach would be closed. Unfortunately, that has just occurred. Had more notice been taken of consultation and more recommendations from community groups and organisations taken up, there may have been different outcomes in relation to the clean up of the Patawalonga.

The Hon. CAROLINE SCHAEFER: As I have been told that this Bill is to be unanimously supported with no amendments, my contribution will accordingly be brief. I serve on a number of environmental backbench committees with both the Hon. Mr Elliott and the Hon. Mr Terry Roberts. I believe we have all come to know that Minister Wotton is intent on as much public consultation in environmental matters as is possible. This Bill endeavours to involve more people, and it involves a flatter management strategy, I suppose, with less people at the top position. Essentially, it eliminates what has become an unwieldy board of 20 people and it allows more consultation amongst a broader group of people. I heard the Hon. Mr Roberts say that some of these committees are not working, and I guess that is what happens: the more people involved on a committee, the more disgruntled people you have. Nevertheless, there is the ability to change the make up of committees. People with expertise in any given area, be it air or water pollution, can contribute directly rather than attempting to be experts on all things. I commend the Bill to the Council.

The Hon. R.I. LUCAS (Minister for Education and Children's Services): I thank members for their contributions and indications of support for this legislation.

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

CONTROLLED SUBSTANCES (GENERAL OFFENCES—POISONS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 28 November. Page 629.)

The Hon. SANDRA KANCK: The only lobbying I have received on this Bill has been in regard to the need to have it passed, and as soon as possible, so that bronchodilators for asthmatics will be able to be included in school first-aid kits. I could not find this in the Bill, and I am very grateful that the second reading explanation explained that this provision will be allowed through the regulation making powers. I have read and reread clause 26, those regulation making powers, and, for the life of me, I cannot get this to mean that the regulations will allow this to happen. So, I hope that in the verbiage of this Bill the Government has got it right and that it will be able to occur within the scope of clause 26.

If the Minister is able to provide it, I would not mind an explanation as to how the clause works, because if we do not have it right the expectations of many parents with asthmatic children will be dashed. Assuming that it is correct and that the bronchodilators will be made available shortly in school first-aid kits, can the Minister tell me whether all the teachers in the schools where the first-aid kits are located will be given some degree of training in the use and effect of bronchodilators, or will it just be one person? I ask this question in the light of information that has been provided to me from the AMA, that two-thirds of people using what the medical profession calls beta-agonists are not using them correctly.

It is worth noting that they should only be used as an interventionary and not as a preventive medicine. Beta-agonists are based on adrenalin and there can be neurological side effects such as trembling and hyperactivity, and it can result in an increase in blood pressure, which, I guess, are the same sorts of side effects one can get with an adrenalin rush. There are potentially other more serious side effects from the use of these puffers including cardiac arrhythmia and hypokalaemia. So, I believe that it is very important that there be competent people in charge of these first-aid kits. With those queries, I indicate that the Democrats support the second reading of the Bill.

The Hon. R.D. LAWSON secured the adjournment of the debate.

SOUTH AUSTRALIAN MULTICULTURAL AND ETHNIC AFFAIRS COMMISSION (CONSTITUTION OF COMMISSION) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 28 November. Page 628.)

The Hon. BERNICE PFITZNER: I support this Bill, which amends the South Australian Multicultural and Ethnic Commission Act. We have come a long way since the White Australia Policy. As reported in the *Sydney Morning Herald* in 1949, Arthur Caldwell of the Labor Party proudly announced 'So long as the Labor Party remains in power, there will be no watering down of the White Australia Policy.' The objective, then, was to retain an essentially mono-cultural society. Other cultures had to be assimilated—they had to 'fit in'. However, by the 1960s, as America pulled out of Indochina and the British retired from Malaysia, Australia's path was to be accommodated with Asia. In the 1970s, with the Whitlam and Fraser Governments, it was recognised that Australia's future lay with Asia and both Governments embraced the notion of a multicultural and multi-racial society.

However, some cautiousness has been expressed by some people that perhaps multiculturalism might be ambiguous as far as it pertains to the future of Australia, and that it may become divisive and threatening. This does not appear to have eventuated and social cohesiveness has not been affected. Multiculturalism is not at odds with national unity.

Indeed, the Fraser Government adopted the catchcry 'Unity with Diversity' in its goal of establishing a 'cohesive, united and multicultural nation'.

Recently, in the 1980s and 1990s, we have completely accepted the concept of multiculturalism. Personally, I find it difficult to understand how people from different and diverse cultures can be made monochromatic. Even if we want to, we cannot forget our early upbringing. Having now spent 30 years in Australia—more than half of my life here—I know that the culture of my country of origin does not vanish, nor does it fade away. Therefore, multiculturalism is the only realistic way to go.

The latest ethnic population figures, based on the 1991 ABS census, include a table outlining the birthplace of people in the Australian community. Mr President, I seek leave to incorporate that table into *Hansard*.

Leave granted.

BIRTHPLACE (COUNTRIES) BY SEX
(All persons)

Birthplace	Males	Females	Persons	Per cent
Main English speaking countries:				
Australia	6 276 906	6 448 257	12 725 163	75.5
Canada	11 644	12 482	24 126	0.1
Ireland	27 069	25 368	52 437	0.3
New Zealand	139 974	136 088	276 062	1.6
South Africa	24 156	25 265	49 421	0.3
United Kingdom (a)	560 762	557 913	1 118 675	6.6
USA	26 074	24 467	50 541	0.3
Total	7 066 585	7 229 840	14 296 425	84.8
Other Countries:				
Argentina	5 311	5 352	10 663	0.1
Austria	11 952	10 201	22 153	0.1
Cambodia	8 803	8 826	17 629	0.1
Chile	11 782	12 372	24 154	0.1
China	41 715	37 151	78 866	0.5
Cyprus	11 328	10 825	22 153	0.1
Czechoslovakia	9 955	7 829	17 784	0.1
Egypt	17 064	16 131	33 195	0.2
Fiji	14 588	15 956	30 544	0.2
France	8 101	7 815	15 916	0.1
Germany	56 540	58 369	114 909	0.7
Greece	69 754	66 577	136 331	0.8
Hong Kong	28 950	30 034	58 984	0.4
Hungary	14 861	12 342	27 203	0.2
India	30 842	30 764	61 606	0.4
Indonesia	16 792	16 472	33 264	0.2
Italy	136 309	118 467	254 776	1.5
Japan	10 632	15 352	25 984	0.2
Korea (b)	10 176	10 821	20 997	0.1
Laos	4 914	4 744	9 658	0.1
Latvia	4 666	4 615	9 281	0.1
Lebanon	36 222	32 773	68 995	0.4
Malaysia	34 870	37 741	72 611	0.4
Malta	28 453	25 358	53 811	0.3
Mauritius	8 231	8 657	16 888	0.1
Netherlands	50 736	45 130	95 866	0.6
Papua New Guinea	11 492	12 251	23 743	0.1
Philippines	25 633	48 027	73 660	0.4
Poland	34 959	34 005	68 964	0.4
Portugal	9 415	8 595	18 010	0.1
Singapore	11 389	13 174	24 563	0.1
Spain	7 936	6 849	14 785	0.1
Sri Lanka	18 729	18 554	37 283	0.2
Turkey	14 565	13 280	27 845	0.2
Ukraine	4 568	4 471	9 039	0.1
Uruguay	4 716	4 974	9 690	0.1

USSR n.e.i. (c)	11 747	14 140	25 887	0.2
Vietnam	63 967	58 380	122 347	0.7
Yugoslavia	85 867	75 197	161 064	1.0
Other (d)	119 125	115 179	234 304	1.4
Total	1 107 655	1 077 750	2 185 405	13.0
Not stated	188 384	180 319	368 703	2.2
Total	8 362 624	8 487 909	16 850 533	100.0

(a) Includes England, Scotland, Wales and Northern Ireland.
(b) Comprises Democrat People's Republic of Korea and Republic of Korea.
(c) Comprises USSR and the Baltic States other than Latvia and Ukraine.
(d) Includes 'inadequately described', 'at sea' and 'not elsewhere classified'.

The Hon. BERNICE PFITZNER: In this table we note some interesting facts. For instance, people from the main English-speaking countries such as the United Kingdom, Canada and so on comprise 84.8 per cent of the Australian population and people from other countries comprise 13 per cent. Of this percentage, the Italian component is 1.5 per cent, the Greek component is .8 per cent and people from Asian countries total 4 per cent and are comprised as follows: Cambodia, .1 per cent; China, .5 per cent; Fiji, .2 per cent; Hong Kong, .4 per cent; India, .4 per cent; Indonesia, .2 per cent; Japan, .2 per cent; Korea, .1 per cent; Laos, .1 per cent; Malaysia, .4 per cent; Philippines, .4 per cent; Singapore, .1 per cent; Sri Lanka, .2 per cent; and Vietnam, .7 per cent.

It is interesting to note that newly-arrived Asians make up 4 per cent of the Australian population, whilst Greeks and talians make up .8 per cent and 1.5 per cent respectively. This is due to the much earlier migration of Greeks and Italians, who are now two or three generations down the track. The other table of interest is that of languages spoken at home: English, 82.8 per cent; Chinese, 1.6 per cent; Vietnamese, .7 per cent; Italian, 2.6 per cent; and, Greek, 1.8 per cent. As a result of our campaigning in the electorate and with this knowledge, we can decide into which languages our policies should be translated. I seek leave to incorporate this table into *Hansard*.

The PRESIDENT: Is it purely statistical?

The Hon. BERNICE PFITZNER: Yes.

Leave granted.

LANGUAGE SPOKEN AT HOME BY SEX
(Persons aged 5 years or more)

Language spoken at home	Males	Females	Persons	Per cent
Speaks English only	6 355 772	6 521 425	12 877 197	82.6
Speaks other language:				
Aboriginal languages	20 359	20 680	41 039	0.3
Arabic including Lebanese	76 395	70 927	147 322	0.9
Chinese languages:				
Cantonese	76 028	79 906	155 934	1.0
Mandarin	28 175	24 686	52 861	0.3
Chinese as stated	15 299	12 631	27 930	0.2
Chinese other	6 833	7 698	14 531	0.1
Total	126 335	124 921	251 256	1.6
Croatian	31 232	29 499	60 731	0.4
Czech	4 734	4 444	9 178	0.1
Dutch	22 207	25 336	47 543	0.3
Filipino languages	21 315	35 299	56 614	0.4
French	22 051	23 690	45 741	0.3
German	56 444	58 871	115 315	0.7
Greek	139 071	135 904	274 975	1.8
Hindi	10 811	10 774	21 585	0.1
Hungarian	14 104	15 024	29 128	0.2
Indonesian/Malay	14 810	14 090	28 900	0.2
Italian	207 376	202 104	409 480	2.6
Japanese	11 699	14 971	26 670	0.2
Khmer	6 849	6 749	13 598	0.1
Korean	9 572	9 226	18 798	0.1
Latvian	3 468	4 060	7 528	0.0
Macedonian	31 447	29 963	61 410	0.4
Maltese	26 430	25 601	52 031	0.3
Polish	30 904	34 020	64 924	0.4
Portuguese	12 233	12 016	24 249	0.2

LANGUAGE SPOKEN AT HOME BY SEX
(Persons aged 5 years or more)

Language spoken at home	Males	Females	Persons	Per cent
Russian	10 706	12 967	23 673	0.2
Serbian	12 015	11 249	23 264	0.1
Spanish	42 423	43 746	86 169	0.6
Turkish	19 621	18 469	38 090	0.2
Ukrainian	5 817	6 510	12 327	0.1
Vietnamese	53 953	48 148	102 101	0.7
Yugoslav n.e.i.(a)	21 309	20 691	42 000	0.3
Other(b)	103 535	99 945	203 480	1.3
Not stated	189 142	182 043	371 185	2.4
TOTAL	7 714 139	7 873 362	15 587 501	100.0

(a) Comprises 'Yugoslav n.e.i.' and 'Serbo-Croatian'.

(b) Includes 'other language indicated but not stated' and 'inadequately described'.

The Hon. BERNICE PFITZNER: The last statistical table of interest is a break-down of the countries of ancestry in the Australian community (based on the 1986 ABS census). Mr President, I seek leave to incorporate this table into *Hansard*.

Leave granted.

ANCESTRY RESPONSES MOST FREQUENTLY REPORTED

Ancestry response	Number ('000)	Per cent
English	5 561.6	35.6
Australian	2 905.8	18.6
Italian	507.2	3.3
Irish	377.6	2.4
Scottish	339.8	2.2
Greek	293.0	1.9
British, so described	286.1	1.8
English-Irish	258.8	1.7
German	233.3	1.5
Australian English	194.3	1.2
English Scottish	183.0	1.2
Chinese	172.5	1.1
Aboriginal	153.0	1.0
Dutch	149.7	1.0
English-German	115.9	0.7
Yugoslavian(a)	109.5	0.7
Polish	97.1	0.6
Maltese	96.8	0.6
Irish-Scottish	88.6	0.6
Lebanese	82.4	0.5
Vietnamese	62.2	0.4
Indian(b)	46.7	0.3
Welsh	45.5	0.3
Other British Ind.		
Anglo-saxon	45.2	0.3
New Zealander	44.5	0.3
Spanish	43.1	0.3
Other and not classifiable	2 043.2	13.1
Not stated	1 066.5	6.8
TOTAL	15 602.2	100.0

(a) Comprises only those who stated Yugoslavian
(b) Comprises only those who stated Indian

The Hon. BERNICE PFITZNER: In this table we note that the people of English ancestry represented 35.6 per cent; Italian ancestry represented 3.3 per cent; Greek ancestry represented 1.9 per cent; for Chinese ancestry the figure is 1.1 per cent; Vietnamese ancestry represented 0.4 per cent; and I found it surprising that German ancestry represented 1.5 per cent. These statistics indeed confirm our very multicultural society. Therefore, we ought to be clear on what we mean by 'multiculturalism'. In a descriptive sense, we mean that we have a cultural and ethnic community of great diversity in contemporary Australia.

As a policy, there are different facets to be considered, such as a cultural identity; being able to express and share our cultural heritage in such things as language and religion; an equality of opportunity and treatment such that race, culture, language and religion are not obstacles to the achievement of individual potential; and recognition and utilisation of our skills and talents.

In recognition of this, we see the implementation of the multicultural policy in terms of English language course packages and of Special Broadcasting Services—the SBS—which are multilingual and multicultural in character. However, there is an underlying and unifying premise, and that is that all of us as Australians have a commitment to Australia, to its interest and to its future first and foremost, and that is a taken and understood premise.

I now look at the two issues of the multicultural Bill. First, we note that we are aiming for gender balance—at least four men and four women. It would be a wonderful day if such gender equalisation was a natural community response rather than a legislative edict. Of course, we support the policy at this present moment.

The other somewhat contentious issue is whether the Chief Executive Officer and the Chairman of the commission ought to be separate positions or amalgamated into one. I am familiar with both models and, on balance, I would opt for the two offices being separate. The reason for this is that the role of Chairperson and the board is to decide on policy, whilst the role of the CEO and the staff of the office is, in the main, to implement the policies. I note that the Hon. Mr Paolo Nocella has served in the amalgamated model. I would say that it is difficult for one person to undertake the two different roles so that it is efficient and effective. However, during the Hon. Mr Paolo Nocella's time I consider that he served the ethnic communities in both capacities very well.

The skills required are different and, if we obtained them all in one person, we would be lucky. I would say again that, on balance, I would prefer two people for the two roles. In conclusion, I state that it should give all Australians a great deal of satisfaction to note how well the implementation of multiculturalism is working in our society. I commend the Bill to the Council.

The Hon. SANDRA KANCK: I support the Bill, but comment briefly on the proposal that within the commission the position that currently exists in relation to the United Trades and Labor Council will be removed. The Opposition raised this matter in its contribution to the Bill, and I share its concern. The argument that has been given by the Government is that there is no justification for guaranteeing the

UTLC position when this right is not available to any other organisation. I find it a strange argument, and the Government certainly does not appear to have given any stronger reason than that. For instance, there is no evidence that the UTLC position is not working. In fact, from the Opposition's contribution it would appear that it is quite to the contrary. It seems to me that this may be another case of something of: 'If it's not broke, don't fix it.' However, having expressed that concern about the future direction of the commission, we will be supporting the Bill.

The Hon. R.I. LUCAS (Minister of Education and Children's Services): I thank honourable members for their contribution to this legislation and for their indicated support for the passage of it. I must say, not having been actively involved in the administration of multicultural and ethnic affairs in South Australia, but as an outside observer and being very interested in it, I always had the view that the Chair position and the Chief Executive Officer position should be filled by two separate people. I have had that view for many years with Governments of both persuasion. I acknowledge the various views that have been expressed about that issue in the legislation and I thank honourable members again for their contribution and their indications of support for the legislation.

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

LIQUOR LICENSING (DISCIPLINARY ACTION) AMENDMENT BILL

The Hon. K.T. GRIFFIN (Attorney-General) obtained leave and introduced a Bill for an Act to amend the Liquor Licensing Act 1985. Read a first time.

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

That this Bill be now read a second time.

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

Leave granted.

This Bill makes several technical adjustments to the *Liquor Licensing Act 1985* relating to the disciplinary powers of the Licensing Court.

It rectifies an existing deficiency in the Act whereby disciplinary actions can only be maintained against existing licensees.

The amendments will result in the ability of the Licensing Court to discipline persons other than only existing licensees, for instance, approved or former approved managers, persons who occupy or have occupies positions of authority in bodies corporate holding licences and persons directly deriving financial benefit from a liquor licence.

There will now be the option of a maximum fine of $15 000 and an extended ability for the Licensing Court to impose periods of suspension and disqualification from being approved or licensed under the Act.

Provision is also made for a person occupying a position of authority in a licensed body corporate to be vicariously liable to disciplinary action for misconduct on the part of the licensed body subject to the defence that the person could not have prevented the misconduct by the exercise of real diligence.

Explanation of Clauses

The provisions of the Bill are as follows:

Clause 1: Short title

This clause is formal.

Clause 2: Commencement

This clause provides for the measure to be brought into operation by proclamation.

Clause 3: Amendment of s. 83—Rights of intervention

Section 83 of the principal Act currently authorises intervention by the Commissioner of Police in proceedings before a licensing authority to introduce evidence or make representations as to whether a person is a fit and proper person to hold a licence. Section 83 is amended so that the provision relates not just to the licensing of a person but also to the approval of a person to occupy a position of authority in a licensed body corporate, approval as a manager of licensed premises and approval under section 106(4)*(c)* as a person who may derive profits from a licensed business.

Clause 4: Amendment of s. 106—Prohibition of profit sharing

Section 106 of the principal Act provides for approval by the licensing authority of a person who may receive profits or proceeds under some agreement or arrangement with a licensee. The clause amends this provision so that it is clear that such a person must be a fit and proper person in order to be so approved.

Clause 5: Substitution of Part 8

PART 8
DISCIPLINARY ACTION

Part 8 currently deals with disciplinary action against licensees only.

124. Persons to whom Part applies

This proposed new section will allow disciplinary action to be taken against a wider range of persons—

(a) a person who is or has been licensed or approved under the Act;

(b) a person who has sold liquor without a licence;

(c) a person who occupies or has occupied a position of authority in a licensed body corporate or a body corporate that has sold liquor without a licence;

(d) a person who supervises or manages or has supervised or managed a business conducted in pursuance of a licence or a business in the course of which liquor has been sold without a licence;

(e) a person who, as an unlicensed person, has acted contrary to section 106 (sharing in the profits of a licensed business).

125. Cause for disciplinary action

This proposed new section retains the existing grounds for disciplinary action against a person but adds the following further grounds:

- if any licensing or approval of the person under the Act has been improperly obtained;
- if the person is or has been licensed or approved under the Act but is not a fit and proper person.

The grounds for disciplinary action have been recast so that they may apply to the range of persons set out in proposed new section 124 and not just to licensees.

As under the current section, a complaint may be lodged with the Court setting out matters that are alleged to constitute grounds for disciplinary action under this Part.

The replacement provision as to the persons who may lodge complaints on various specified grounds is the same in effect as the current provision.

Subclause (4) is a new provision intended to make it clear that a complaint may be lodged and disciplinary action taken against a person in respect of conduct that constitutes an offence despite the fact that the person has not been prosecuted for the offence.

125A. Disciplinary action

Proposed new section 125A deals with the orders that may be made if the Court, on the hearing of a complaint, is satisfied on the balance of probabilities that there is proper cause for taking disciplinary action against the person to whom the complaint relates.

As under the current provision, the Court may, in the case of a person licensed under the Act, add to, or alter, the conditions of the licence.

The Court is given power to suspend or revoke an approval of a person in addition to the power, as under the current provision, to suspend or revoke a licence.

The new clause retains the power to reprimand a person. It also adds further powers to impose a fine not exceeding $15 000 on a person and to disqualify a person from being licensed or approved under the Act.

Provision is made so that the Court may determine the period of operation of disciplinary orders and may vary an order imposing a suspension or disqualification.

Subclause (3) makes it clear that if a person has been found guilty of an offence and the circumstances of the offence form, in whole or in part, the subject matter of the complaint, the person is not liable to a fine under a disciplinary order in respect of the same conduct.

The new clause repeats the provisions contained in subsections (2) and (3) of the current section 125 dealing with disciplinary orders.

Clause 6: Substitution of s. 135

135. Vicarious liability for offences or misconduct by bodies corporate

Current section 135 provides that if a body corporate is guilty of an offence against this Act, the directors and the manager of the body corporate are each guilty of an offence and liable to the same penalty as is prescribed for the principal offence. The new provision extends this to all persons in a position of authority (as defined in section 4(5) of the principal Act) and adds that it will be a defence if it is proved that the person could not, by the exercise of reasonable diligence, have prevented the commission of the offence by the body corporate.

The proposed new section also provides for vicarious liability in relation to disciplinary action so that if there is proper cause for disciplinary action against a body corporate under Part 8, there will be proper cause for disciplinary action under that Part against each person occupying a position of authority in the body corporate unless it is proved that the person could not, by the exercise of reasonable diligence, have prevented the misconduct constituting the cause for disciplinary action against the body corporate.

The Hon. G. WEATHERILL secured the adjournment of the debate.

LEGAL PRACTITIONERS (MISCELLANEOUS) AMENDMENT BILL

The Hon. K.T. GRIFFIN (Attorney-General) obtained leave and introduced a Bill for an Act to amend the Legal Practitioners Act 1981. Read a first time.

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

That this Bill be now read a second time.

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

Leave granted.

This Bill seeks to make a number of miscellaneous amendments to the *Legal Practitioners Act 1981* ("the Act"). While a number of the proposed amendments are for the purposes of "tidying up" the Act, the Bill has certain important provisions which recognise the separation of the Legal Practitioners Complaints Committee from the Law Society and widen the powers of the existing disciplinary mechanisms which deal with legal practitioners in South Australia. This Bill is the first part of a wider review of the existing disciplinary processes to ensure that complaints against legal practitioners are dealt with expeditiously and fairly.

As previously stated, the Bill recognises the separation of the Legal Practitioners Complaints Committee ("the Committee") from the South Australian Law Society. Clause 15 of the Bill establishes the Committee as a body corporate, with perpetual succession, a common seal and the powers of a natural person. This amendment will allow the Committee to sue and be sued in its own name and acquire and incur rights and liabilities so far as may be necessary to carry out its functions and duties under the Act (i.e. enter into contracts for the purchase of equipment and services, enter into a lease for it premises, sue to recover costs and receive money, establish its own bank account and receive monies into that account). Section 7 of the Act is amended to provide the Law Society with powers in the same terms. Further, the Bill amends section 72 of the Act to provide that there will be a Director of the Committee and that the Director be appointed by the Committee with the approval of the Attorney-General. These amendments a greater level of independence of the Committee from the Law Society, a change which will reinforce impartiality in the disciplinary process.

Section 77(4) of the Act currently provides that if, in the course of an investigation, the Committee is satisfied that there are reasonable grounds to suspect that a legal practitioner has committed an offence, then the Committee must immediately report the matter to the Attorney-General. This provision is amended to provide that the Committee must also immediately upon satisfying itself that there are reasonable grounds to suspect a practitioner of criminal activity, report this matter to the police and prosecution authorities in order that they may begin investigations as soon as possible. The Committee has also recognised that matters need to be referred to the appropriate authorities more expeditiously and is now sending information to the Director of Public Prosecutions and the police at the same time as material is referred to the Attorney-General pursuant to section 77(4). This amendment will merely formalise a process which is occurring in any event.

The previous Solicitor-General (now Chief Justice) provided advice in relation to various provisions concerning the Committee. Section 76 of the Act provides that the Committee may of its own motion, and must at the direction of the Attorney-General or the Law Society, make an investigation into the conduct of a legal practitioner. The Committee may only make an investigation after receiving a complaint. It was the advice of the former Solicitor-General that the Act should be amended to provide as follows;

(a) The Committee may make an investigation into the conduct of a legal practitioner whether or not a complaint has been received.

(b) The Committee must investigate of its own motion when a complaint has been received, unless it decides that the complaint is frivolous or vexatious.

(c) The Committee must investigate at the direction of the Attorney-General or the Law Society.

Another matter on which the former Solicitor-General provided advice concerns whether the Committee has power to inspect documents over which legal professional privilege has not been waived. This may be particularly relevant where the Committee has resolved to investigate a complaint of its own motion or is investigating a complaint made by someone other than a client i.e. the Law Society, the Police Department or the other party or solicitor to the proceedings. The Committee received advice from the then Solicitor-General in 1992 that the section was unclear and required amendment to enable the Committee to require production of such documents.

Further, the Committee has expressed concern that the current wording of the Act may not allow the inspection (or request for a copy) of records or documents which are kept exclusively by electronic means. With the increase in information stored by electronic means, this is clearly a real problem. This Bill amends the Act to provide a power to inspect or require production of a document that is accessible only through the use of a computer or other device.

This Bill also makes a number of amendments to the provisions relating to the Legal Practitioners Disciplinary Tribunal ("the Tribunal") which have been recommended by the Tribunal in its Annual Report. These include an express power for the Tribunal to receive undertakings from defaulting practitioners that he or she will, during a period specified in the undertaking, practise law according to certain conditions. There needs also to be a power for the undertaking to be varied or withdrawn from time to time upon application to the Tribunal. Any breach of the terms of the undertaking will be considered to be unprofessional conduct. The Tribunal has also requested power to direct a periodic audit of the files of a defaulting practitioner with a requirement that the practitioner bear the cost of this procedure.

At present, upon finding that a legal practitioner is guilty of unprofessional conduct, the Tribunal is empowered to order that the practitioner not practise law for a maximum period of six months otherwise than in accordance with conditions stipulated in the order. The Tribunal reports that, while this is a useful power, the period of six months is not sufficient to complete an effective professional rehabilitation program. The Tribunal notes that the alternative procedure of referring the matter to the Supreme Court for disciplinary action may not be appropriate. This Bill increases the period to twelve months.

The Bill amends the Act to allow for a member of the Tribunal who has completed the term of his or her appointment to continue as a panel member for the limited purpose of completing unfinished business assigned to the panel. The Tribunal reports that the course of disciplinary proceedings is often unpredictable and that the Tribunal has experienced difficulty in completing particular matters before the retirement of a panel member.

The Bill also provides for two of the three members of a panel to continue to hear a matter if one of the members dies or is incapacitated due to illness. This should not occur unless the consent of the practitioner has been obtained. In the event that this occurs, the panel will only be able to make a decision if both members agree (and if the members cannot agree, the charge against the practitioner may be relaid). This amendment was originally made to address the matter of a panel member who was suffering from a serious illness and not expected to return to sit on the panel. Thankfully, the member is now in good health but the amendment is still necessary to allow the Tribunal to continue to hear a matter with only two

members if a member of the Tribunal falls ill or for some other reason becomes unavailable.

Finally, the Bill provides that the Tribunal may require any person appearing before it to prepare a document, including a bill of costs in taxable form, which may reasonably be required for the purposes of the Tribunal's inquires and that the Tribunal may require any person appearing before it to obey any reasonable direction of the Tribunal in order to further its inquires.

As previously stated, the Bill includes a number of miscellaneous amendments which have been requested to "tidy up" the existing provisions of the Act. These include an amendment to ensure that individual practitioners and directors of incorporated practices must both apply to the Supreme Court for the granting of an authority to continue to practise in the event of a personal or corporate insolvency. The Council of the Law Society is in agreement with these proposals.

These miscellaneous amendments also include the repeal of the existing section 42(4) of the Act, which empowers the Commissioner for Consumer Affairs to institute proceedings for the taxation of legal costs on behalf of any person who is liable for legal costs. The former Commissioner for Consumer Affairs was of the view that the Office of Consumer and Business Affairs lacks the necessary expertise in the complex area of taxation of legal costs. The former Commissioner considered that disputes over costs would be better handled by the Courts and the Law Society as these organisations have greater expertise in this area. Further, the former Commissioner asserted that if the power in section 42(4) remains, it may become a complex area of responsibility for the Office of Consumer and Business Affairs at a time when its resources are stretched. Consultation has taken place with the Law Society and it has agreed with the proposal to repeal section 42(4) of the Act.

The miscellaneous amendments to the Act also include a requirement that a legal practitioner who receives trust money in the course of acting in a matter must provide the person who instructed him or her in the matter with trust account statements.

I commend this Bill to Honourable Members.

Explanation of Clauses

Clause 1: Short title

Clause 2: Commencement

These clauses are formal.

Clause 3: Amendment of s. 5—Interpretation

This clause amends section 5 of the principal Act as follows:

- the definition of "approved auditor" is amended to make it clear that the approval may be granted by the Registrar of the Supreme Court;
- a definition of "document" is inserted to make it clear that term includes any type of document, including information stored electronically.

Clause 4: Amendment of s. 7—Incorporation and powers of Society

This clause does not substantively amend section 7 of the principal Act but merely substitutes wording that is more consistent with recent incorporation provisions in other Acts.

Clause 5: Amendment of s. 31—Disposition of trust money

This clause amends section 31 of the principal Act to require legal practitioners to provide their clients with trust account statements in accordance with regulations.

Clause 6: Amendment of s. 34—Appointment of inspector

This clause consequentially amends section 34 so that it refers merely to "documents".

Clause 7: Amendment of s. 35—Obtaining information for purposes of audit or examination

This clause consequentially amends section 35 so that it refers merely to "documents".

Clause 8: Amendment of s. 37—Confidentiality

This clause amends section 37(4) of the principal Act so that it includes matters reported to law enforcement or prosecution authorities by the Committee as well as matters referred to such authorities by the Attorney-General. This is consequential to the amendment to section 77(4) of the Act.

Clause 9: Amendment of s. 39—Delivery up of legal papers

This clause consequentially amends section 39 so that it refers merely to "documents".

Clause 10: Amendment of s. 42—Costs

This clause amends section 42 of the principal Act by removing the power of the Commissioner for Consumer Affairs to institute proceedings for the taxation of legal costs.

Clause 11: Amendment of s. 45—Appointment of manager

This clause consequentially amends section 45 so that it refers merely to "documents".

Clause 12: Amendment of s. 49—Supreme Court may grant authority permitting insolvent persons to practise

This clause provides that a legal practitioner—

- who has become bankrupt or has applied to take the benefit of a law for the relief of bankrupt or insolvent debtors; or
- who is or has been a director of an incorporated legal practitioner during the winding up of the company for the benefit of creditors,

must not practise law without the Supreme Court's authorisation. Breach of the section is punishable by a maximum fine of $10 000.

Clause 13: Amendment of s. 57—Guarantee fund

This clause removes an incorrect reference to Part 5 in section 57 of the principal Act and provides for any fee paid to the Committee to be included in the guarantee fund.

Clause 14: Amendment of s. 60—Claims

This clause amends section 60 of the principal Act to allow a successful claimant to be reimbursed for reasonable costs incurred in making the claim.

Clause 15: Amendment of s. 68—Establishment of the Legal Practitioners Complaints Committee

This clause amends section 68 of the principal Act to make the Legal Practitioners Complaints Committee a body corporate with the usual powers.

Clause 16: Substitution of s. 72

This clause substitutes a new section 72 in the principal Act dealing with the Director and other staff of the Committee. The new provision reflects the fact that the secretary of the Committee is now called the Director, and allows the Committee to appoint the Director, with the consent of the Attorney-General. The proposed provision also incorporates the power to appoint other staff, which is currently contained in section 74(2).

Clause 17: Amendment of s. 73—Confidentiality

This clause amends section 73(2) of the principal Act so that it includes matters reported to law enforcement or prosecution authorities by the Committee as well as matters referred to such authorities by the Attorney-General. This is consequential to the amendment to section 77(4) of the Act.

Clause 18: Amendment of s. 74—Functions of Committee

This clause amends section 74 of the principal Act—

- to allow the Committee to investigate matters of its own motion or at the direction of the Attorney-General or the Society;
- to allow the Committee to prescribe fees with the consent of the Attorney-General.

The provision relating to staff currently contained in this section is removed as it is proposed to be incorporated in new section 72.

Clause 19: Amendment of heading

This clause amends the heading above sections 76 and 77 of the principal Act so that it more accurately reflects the contents of those sections.

Clause 20: Amendment of s. 76—Investigations by Committee

This clause makes a number of amendments to section 76 of the principal Act as follows:

- Subsection (1) is replaced with three new subsections. New subsections (1) and (1a) are not substantively different from the current subsection (1) but are expressed in clearer terms. New subsection (1b) provides the Committee with the power to decline to investigate or discontinue an investigation into a complaint that is frivolous or vexatious.
- Subsections (3) and (4) are amended so that they refer to "documents" (in keeping with other amendments to the principal Act).
- the definition of "prescribed person" is amended to include a person instructing a legal practitioner.

Clause 21: Amendment of s. 77—Report on investigation

This clause makes a number of minor changes to section 77 of the principal Act. Firstly, the clause makes a number of consequential amendments—the wording of the section currently assumes that the Committee would only be investigating a matter following receipt of a complaint, however, under the proposed amendments to section 74 the Committee will be able to investigate matters even if no complaint is received.

Secondly, the clause provides for the Committee to report to all relevant law enforcement and prosecution authorities as well as the Attorney-General.

Clause 22: Amendment of s. 77A—Investigation of allegation of overcharging

This clause consequentially amends section 77a so that it refers merely to "documents".

Clause 23: Amendment of s. 79—Conditions of membership

This clause amends section 79 of the principal Act to provide that a retiring member of the Tribunal may complete any part-heard matters.

Clause 24: Amendment of s. 80—Constitution and proceedings of the Tribunal

This clause amends section 80 of the principal Act to provide for the continuation of proceedings in the Tribunal where a member of the Tribunal dies or is otherwise unable to continue acting as a member. Proceedings may only be continued if the practitioner that has been charged consents to the continuation, and the Tribunal's decision in such a case must be unanimous.

Clause 25: Amendment of s. 82—Inquiries

This clause amends section 82 of the principal Act to allow the Tribunal power to accept an undertaking from a practitioner or to require some form of on-going auditing of the practitioner's accounts.

Clause 26: Amendment of s. 84—Powers of Tribunal

This clause makes a number of amendments to section 84 of the principal Act. Firstly, the section is consequentially amended so that it refers only to "documents". A new paragraph is inserted in subsection (1) giving the Tribunal power to require the preparation of any document (including a bill of costs). Failure to comply with a reasonable request of the Tribunal is made an offence. Subsection (6) is deleted as its contents will be covered by proposed new section 95C, discussed below.

Clause 27: Amendment of s. 95—Application of certain revenues

This clause amends section 95 of the principal Act to allow the Society to be paid an amount approved by the Attorney-General, out of the money paid for practising certificates. This clause reflects the fact that the Society currently provides administrative services in relation to the provision of practising certificates and would allow the Society to be reimbursed for its associated costs.

Clause 28: Insertion of ss. 95A, 95B and 95C

This clause inserts new provisions in the principal Act as follows:

95A. Inspection of documents

This provision provides for access to documents stored electronically.

95B. False or misleading information

This provision creates a general offence of knowingly making a false or misleading statement in information provided, or a record kept, under the Act. The maximum penalty for breach of the section is a fine of $10 000.

95C. Self-incrimination and legal professional privilege

This provision removes the privilege against self-incrimination and legal professional privilege for the purposes of obtaining information or documents under the Act. However, information or documents that would otherwise be subject to these privileges—

- in the case of the privilege against self-incrimination—will not be admissible in evidence against the person in proceedings (other than proceedings in respect of the making of a false or misleading statement or perjury) in which the person might be found guilty of an offence or liable to a penalty;
- in the case of legal professional privilege—will not be admissible in civil or criminal proceedings against the person who would, but for this provision, have the benefit of the legal professional privilege.

Clause 29: Revision of penalties

This clause provides for amendment of the penalties contained in the Act in accordance with the schedule.

SCHEDULE

Revision of Penalties

The schedule amends all penalties in the principal Act and removes the references to Divisional penalties.

The Hon. G. WEATHERILL secured the adjournment of the debate.

SOUTH AUSTRALIAN HOUSING TRUST BILL

Adjourned debate on second reading.

(Continued from 28 November. Page 630.)

The Hon. T.G. ROBERTS: The Opposition supports the Bill, but I indicate that we have some amendments on file and that we will support some of the Democrats' proposed amendments. I will not take up too much time of the Council but will indicate that the Bill is a consequence of the changes made to the Housing and Urban Development Act that we have already considered. The Government did not get all that it wanted in relation to mopping up the trust, and this Bill is a consequence of that.

The concerns shared by people in the community have been relayed to the shadow Minister, other members of the Labor Party and me. It is not just the indicated position of the written Bill but that the role of the trust in its current form, in providing safe, equitable and affordable accommodation, may change. There is a cynical view in the community that the role and relationship between tenant and administration will alter to a point where they will be disadvantaged.

We have been given guarantees by the Government that that is not the case in that it is a mechanistic facilitator. The Bill will not change that relationship nor the role and function of the trust in providing social housing and affordable rent accommodation to people on low incomes and/or Social Security.

The role of the trust has changed over the years. The private sector has picked up some of the roles that the Housing Trust played in the early days in providing cheap, affordable accommodation for large sections of the community which had migrated here over a number of years. Those rapid population increases which spread throughout the State have ceased. The population levels are basically growing naturally with some top-up from immigration, but the immigration programs are attracting people who are able to afford private rental rather than those performing labouring and blue collar work.

The nature of society has changed in 40 years, as has the nature, role and function of public housing. Each Government has made adjustments to the role and function of the trust, and the current Government is in the process of making adjustments to the new circumstances in which it finds the current stock of housing that is owned and administered by the trust.

The Government's role will be to decide how to get the configuration of housing right for the social circumstances which the changing nature and function of people in society are starting to develop. The fears that the Democrats had when the changes to the Housing and Urban Development Act were being introduced and which were supported by the Opposition were that, although a major social change was starting to impact on the community, in that the role, nature, function and relationship of tenants and administration was changing, there was still a role for the administration of the trust. The role and function of providing housing was not being confidently addressed in the Bill that the Government put forward. It was felt that the Housing Trust needed to be maintained, even if it was only as a security blanket so that people could feel that there was an organisational structure in which they had confidence and which was able to look at their needs and requirements.

We hope that the fears that the Opposition, the Democrats and some sections of the community have in relation to what they see as the role and function of public housing are able to be allayed and that the circumstances in which people in Britain found themselves after the nature of the housing stock changed, with the privatisation and sell-off programs that took place, do not occur in Australia.

Recently, I read an article in either the *Sunday Times* or the *Guardian* where, because of the complicated nature and function of the administration of the private sale of public stock, the public administrative body in Britain was able to impose on tenants conditions for improvements in particular areas to maintain the quality of stock so that the stock did not detract from the real estate values of the general area. The public administrative body in Britain imposed on those tenants orders for improvements that the tenants could not afford. The tenants had two options. They could either take out loans to effect those improvements that they could not afford—and in some cases they had to take out second and third mortgages in the latter end of their working life, when they were retired and on fixed incomes, which was almost impossible for them—or sell the homes which they had previously rented and which they were talked into buying. Those sorts of concerns have not emerged in South Australia—

The Hon. Sandra Kanck: Yes, they have; a couple of weeks ago I was asked a question about being forced into buying.

The Hon. T.G. ROBERTS: They have not emerged in the same way, but concerns are emerging. People do not want the conditions changed so that they are forced to buy when they do not want to buy, to make improvements that they cannot afford, or to move out of one area into another into housing stock that does not suit their family needs.

The Opposition has always supported the changing nature and role of public housing stock. We recognise the changing nature and role of single families, for instance, and having a more mobile use of stock to take account of the changing nature of the development of societies with an ageing population and the need to upgrade or improve quality and style and provide security of tenure. However, we do not want to do anything to weaken the confidence of tenants and prospective tenants—people on the waiting list—that public housing will no longer be affordable or available.

The Commonwealth provisions regarding comparisons of State housing stock need to be taken into consideration, although they should not be the driving force by which each State administers its public housing stock because each State develops its housing stock differently. For example, the amount of public housing available in Queensland is very little, but South Australia has a very high percentage of public housing. The Commonwealth's argument is that, if rental subsidies are to be made available for people in the private rental market, those subsidies should be compared with public housing. If people are subsidised in the public housing arena, there ought to be a comparable benchmark so that subsidies for private rental can be applied by the Commonwealth through the States. I recognise that there must be some uniformity.

I have supported the development of public housing over the past 50 years, and I shall continue to support the philosophy of Governments involving themselves in supplying housing stock for the rental market for people on low or insecure incomes or social security. As societies develop there will be divisions in the ability of people to earn and participate in the economic cycles in which they find themselves. People need the security that public housing will be available at affordable rates so that they do not have to move into the private rental market where there is little assistance available or little hope of their being able to maintain affordable equitable housing for themselves and their families, put food on the table and clothe and educate their children.

We support the Bill, but spell out the fact that there are still concerns in the community. We hope that the Government will take those matters into consideration when making adjustments to its application of the housing and urban development legislation, plus this Bill, to ensure that people's concerns are not realised.

The Hon. A.J. REDFORD secured the adjournment of the debate.

STATUTES AMENDMENT (WORKERS REHABILITATION AND COMPENSATION) BILL

Adjourned debate on second reading.

(Continued from 23 November. Page 586.)

The Hon. A.J. REDFORD: I support the second reading of this legislation. I will not address the specific clauses at this stage. However, given the announcement last week of the increase in the unfunded liability from the 1994 figure of $111 million to $276 million in the past 12 months, I cannot sit back and silently let it pass. As I said in my second reading contribution to the debate on the WorkCover Rehabilitation (Miscellaneous) Amendment Bill in April 1995, I have grave concerns about the administration, future and basic fundamentals of this scheme. This is the thirteenth set of amendments to the WorkCover system since it was first promulgated by Frank Blevins in December 1986. Notwithstanding that, we have had a deterioration in the financial position of the scheme of about $165 million in 12 months, as reported in this year's annual report. In my view, the scheme is fundamentally flawed.

I draw attention to the explanation given by WorkCover in its annual report for this appalling result. The overview at page 5 of the annual report, regarding this $276 million unfunded liability, states:

> The assessment did not include any benefits to the scheme which may be achieved as a result of the outsourcing of claims management to private agents from 1 August 1995 or the impact of significant legislative changes which apply in 1995-96. Discontinuance rates (returns to work) continued to be poor particularly for claims of two to four years duration.

I understand why, in the formality of this report, the benefits or the consequences of the legislation passed last year and this year were not taken into account. However, one would have thought that some attempt might be made to quantify the effect that those amendments may have had on the unfunded liability, assuming that the changes in the legislative scheme were effected.

The Chief Executive Officer, Mr Lew Owens, at page 8 of the annual report, makes a number of comments about the unfunded liability. He states:

> With the delays in proclamation, and the major disruption associated with outsourcing all claims management activities to private agents from 1 August, it was not possible to apply the new provisions in time for the actuarial assessment at 30 June. The actuary has quite correctly declined to incorporate benefits of the legislative changes in this year's assessment, preferring to wait until the benefits are reflected in the numbers once the changes are applied. This is expected to occur over the next 12 months.

I know that the Hon. Michael Elliott has a penchant for establishing statutory authorities, boards and institutions which are separate and not subject to ministerial responsibility, but the net effect of that—

The Hon. T.G. Cameron interjecting:

The Hon. A.J. REDFORD: I will come to the select committee later. That means that we have to sit back and wait for 12 months before we can find out the net effect of legislative amendments made last year to the unfunded liability of this scheme. For a member of Parliament, that position is absolutely intolerable.

The Hon. T.G. Cameron: Why?

The Hon. A.J. REDFORD: I will come to that. We have to wait until December 1996 to find out the true financial position of the WorkCover Corporation with respect to the unfunded liability during 1995.

The Hon. T.G. Cameron interjecting:

The Hon. A.J. REDFORD: The Hon. Terry Cameron interjects but I am sure that even he—and I know he displayed certain degrees of ignorance of the commercial world in his contribution yesterday—

The Hon. T.G. CAMERON: I rise on a point of order. I have just been referred to as ignorant by the Hon. Mr Redford: I take exception to that and I ask him to withdraw it.

The PRESIDENT: I do not think that is a term that is deemed to be out of order in this Chamber. There is no point of order.

The Hon. A.J. REDFORD: Thank you, Sir. As members of Parliament, who ultimately have responsibility for supervising not only those bodies which are under direct ministerial control but also those statutory authorities that are not under direct ministerial control and those statutory bodies the Hon. Michael Elliott wants to keep separate and at arm's length, we have to wait nearly 18 months before we know the true financial position of a major institution within this State.

The fact is that that sort of attitude led to the financial disasters that accompanied the State Bank and SGIC. I am not suggesting that this is anywhere near that sort of financial disaster, but I would suggest that if we, as members of Parliament, are to do our jobs to properly supervise what WorkCover is doing, at least some indication should be given by the WorkCover board of the expected unfunded liability—albeit, it cannot be accurate—

The Hon. T.G. Roberts interjecting:

The Hon. A.J. REDFORD: The honourable member interjects and says that is why we have actuaries. That is fine, but the honourable member would agree that, as individuals, we cannot, with a lack of information and resources, do our own actuarial calculations of the unfunded liability of the WorkCover Corporation as at today, as a consequence of those amendments that members opposite were most concerned about and the loss of benefits to ordinary working people in South Australia. We will not know the financial benefit—and that is how the Government sold this issue—until 18 months after that financial year. That might be acceptable in some circumstances, but when an unfunded liability blows out by $276 million in a two year period—as reported in the annual report—then as members of Parliament, no matter which side of the House we sit on, have a responsibility to say, 'We want more up-to-date information.'

The Hon. T.G. Roberts: You keep cutting the levies and taking the benefits.

The Hon. A.J. REDFORD: The Hon. Terry Roberts says that we keep cutting the levies and taking benefits—

The Hon. T.G. Cameron: And making more exemptions.

The Hon. A.J. REDFORD: I do not disagree with those assertions as a matter of fact. The Government has said it is doing this because of the severe financial pressure under which the scheme operates. The fact is that WorkCover has come back to this Parliament and requested changes on 13 occasions in 10 years and it does not give us up-to-date information. That is my concern.

The Hon. J.C. Irwin: And keeping businesses in South Australia.

The Hon. A.J. REDFORD: And keeping businesses in South Australia, as the Hon. Jamie Irwin interjects. That is my concern. It publishes these figures and then it says 'We did it on last year's basis, because we do not know the claims history or experience, but it will all be good next year.' That smacks of all the sorts of contributions made by senior public servants and made by leaders of statutory authorities and State financial institutions over the past 10 years. It does not matter which Government suffers the detriment, whether a Bannon Labor Government that loses billions of dollars because of poor reporting and poor information given to it by Marcus Clark, a Government that did not make the proper and searching inquiries that it should have—the same standard applies to this Government. In my contribution today, I am saying that we have to make those same searching inquiries of WorkCover.

An honourable member interjecting:

The Hon. A.J. REDFORD: I am surprised that the honourable member interjects because I am sure that, as a matter of principle, he would agree with me. The annual report also states:

> There is little doubt that the uncertainty associated with outsourcing impacted on staff morale during the period and this in turn meant that many of the claims management initiatives of the previous year were not properly implemented or followed through in 1994-95.

I can understand that issues such as outsourcing and claims management to insurance companies can create a morale problem and can cause worker productivity to suffer. I accept that as a bald statement of principle. However, there is no real attempt to quantify that. Indeed, there is no real attempt in the annual report to say whether those problems have been rectified. I must say one would hope that in the not too distant future we will receive from the WorkCover Corporation, through the Minister, a detailed report on how the outsourcing process is progressing; how many people are employed by WorkCover; how many employees have been either made redundant or transferred to the private insurance companies; what has been the response from the private sector regarding the outsourcing of claims management; and what different techniques they are using to ensure that this scheme is properly administered. One would hope that that information will be forthcoming to this Parliament.

I have read most of the second reading speeches and the significant contributions regarding WorkCover in the 10 year period covering these 13 amendments. On each and every occasion a reason has been given by the WorkCover management, and on each and every occasion—with rare exception—the Parliament has acceded to those requests. I remind members of this place what the Hon. Graham Ingerson said when the Workers Rehabilitation and Compensation (Administration) Bill was introduced in March 1994. We have had the benefit of those changes and they should have been incorporated in the financial result that was tabled before Parliament last week. The Minister said:

> The second Bill proposes amendments to the Workers Rehabilitation and Compensation Act to:
>
> · introduce statutory objects which balance the interests of employers and employees.

A number of various objectives of that legislation are set out. The reasons why the legislation was necessary are given, and certain predictions are made about the net benefit of those amendments to the WorkCover scheme.

I accept that the Bill that was introduced by the Hon. Graham Ingerson was amended during the course of the Parliament, but the broad thrust of what the Government was seeking in that legislation was approved by this Parliament. In his contribution, the Minister urged a reduction in journey claims. He quoted a number of examples of abuses in relation to journey claims. At page 308 of his second reading speech he said:

> As mentioned, this measure will have a net cost saving to the scheme of approximately $15 million per year.

The Minister substantially reflected what the WorkCover board of the day was seeking, and he followed its advice. Let me not be misunderstood: my criticism is of the information given to the Minister, and there is no ultimate ministerial responsibility because it is a separate statutory authority—my criticism is of WorkCover. One can assume that the Minister was given information that the journey accident amendment would have saved approximately $15 million per year. The second issue related to the question of authorised breaks. Where people had breaks from work during the day we took the right to claim for compensation for accidents which occurred during those periods. On information provided by the WorkCover Corporation, the Minister said:

> This measure will therefore have a net cost saving to the scheme of approximately $900 000 per year.

He further said that changes were to be made to drug and alcohol-related claims, where workers who became injured as a consequence of being intoxicated at work were no longer to be covered under the scheme. He gave no figure as to the approximate savings that could be achieved through the changes there. He then said that changes were to be made with respect to commutation of weekly payments. The Minister said that the changes were necessary. The changes were that the WorkCover Corporation was, first, to have complete discretion regarding both the issue of if or when commutation would take place and, secondly, the amount of commutation.

The Minister said that the legislation was to give absolute discretion to the corporation in this area, and this Parliament, on advice from WorkCover, made those amendments. On advice from WorkCover, the Minister said:

> These measures will have a potential cost saving to the scheme of approximately $5 million to $10 million per year relative to present costs.

Members might also recall that significant debate occurred about the issue of stress-related claims. Again, substantially this Parliament agreed with the suggestion made by the WorkCover Corporation and made amendments to stress-related claims, and the Minister, on the advice of the WorkCover Corporation, said:

> This measure will have an approximate cost saving to the scheme of $6 million per year.

The Minister further said, again based on advice from the WorkCover Corporation:

> These changes represent potential savings to the WorkCover scheme of approximately $27 million to $32 million per year.

I am not an actuary, an economist or an accountant, but one would assume that if you are saving of the order of $32 million per year that that would have a significant and dramatic effect on the unfunded liability of WorkCover. One would assume, and I am sure the Hon. Terry Cameron will interject if he thinks I am wrong in making that assumption, that that would affect the total unfunded liability, and one—

The Hon. T.G. Cameron: $32 million from $267 million?

The Hon. A.J. REDFORD: No, a $32 million saving per annum. That is a recurrent saving whereas, as I understand it, the unfunded liability is the total capital position of the operation.

The Hon. T.G. Cameron: What is the total unfunded liability?

The Hon. A.J. REDFORD: $276 million. I would assume that if you are saving something of the order of $27 million to $32 million per year, forever and a day, it would have a dramatic effect on the unfunded liability. It would mean a saving to the unfunded liability of something of the order of $50 million to $100 million.

The Hon. T.G. Cameron: The honourable member invited me to interject and, yes, it would have an impact.

The Hon. A.J. REDFORD: Thank you, I am grateful. I am concerned—and I say this in all earnestness and in my position as a member of Parliament—that these amendments were made well before the commencement of the last financial year. These sorts of savings were expected and, notwithstanding that, we have a blow-out, taking into account these amendments (not those we made last year) of $135 million in the unfunded liability, and all we get from the WorkCover Corporation as members of this Parliament—and I am being very serious about this—is that we did not take into account the last round of amendments. There has been no comment made by the WorkCover Corporation—

The Hon. T.G. Cameron: That's not good enough.

The Hon. A.J. REDFORD: I agree 100 per cent with the Hon. Terry Cameron. I will not sit in this Parliament and watch these sorts of blow-outs happen, and then, when it does become an absolute financial disaster that is unmanageable, turn around and say, 'Well, I did not know it was happening.' Members of Parliament are entitled to know a little more and have a better explanation from the WorkCover Corporation as to why it is happening. The Hon. Michael Elliott might say, 'But we fixed that last year: we set up a standing committee.' Members might recall we had that debate in this place, and we set up the standing committee with the support of members opposite. We have not had any information or any explanation from that standing committee as to why, despite the $27 million to $32 million expected savings to be made in the 1994-95 year, the unfunded liability blew out by $135 million.

I, as a member of Parliament, expect better from the WorkCover Corporation and I, as a member of Parliament, am entitled to more information when I see financial blow-outs of that significance. There may well be a very plausible explanation, but the fact of the matter is that that explanation has not been tabled in this place and has not been properly given to members of Parliament. I may invoke some criticism from the Minister on the score that I have not approached him, but I would answer that by suggesting to him that it is not just a matter of giving the information to me, Angus Redford; it is a matter of giving that information to every member of this place and, indeed, to every member of the other place, so that we can all provide a clear and focused view on the performance of the WorkCover Corporation.

I could go on at length about this. I have expressed my concerns, I hope, succinctly. I hope that my concerns are echoed by other members in this place but, as I said in April

this year, I have grave misgivings about WorkCover, and I have grave misgivings about whether the scheme is absolutely, fundamentally and fatally flawed. As I said in April this year, I have very grave concerns about the standard, quality and competence of the management of the WorkCover Corporation. All I can say is that if a result like this is repeated and I have to stand up this time next year, then I will be moving motions and I will be saying much stronger things about the management of WorkCover than I have said either in April of this year or in my contribution today.

The Hon. ANNE LEVY: In speaking to the second reading of this Bill, I want to limit my remarks to section 4, which relates to weekly payments, the interaction with retirement age, and the sex discrimination which was introduced by the amendments which were passed earlier this year. I am quite happy to acknowledge that the people who prepared the amendments did not intend to discriminate on the basis of sex, but that was certainly the result of what was agreed in the negotiations. As a result, it has caused a great deal of heartburn and difficulty for a number of people. I raised the matter in the Council in June, just a week after WorkCover had written to women aged over 60 who were on weekly payments telling them that, in future, they were not to get a single cent.

One individual contacted me who was absolutely devastated by this. She was not eligible for a pension because her husband was still in employment. It was a second marriage for both of them; they still had a very large mortgage and, without her income as well as his, they were in danger of losing their home. I contacted this woman and informed her that this legislation was coming and that, if she could hang on, she would get her payments retrospectively. In the interim, this couple has had to take out huge loans and pay the interest on them. They will be very much affected financially, even with the payments backdated to 25 May, because of the interest which will be required on the extra loans they have had to take out. While not a large number of people have been affected in the past six months, for a few individuals it has proved to be very difficult indeed.

Although this is an attempt to fix it up, it will not completely remove the damage which has been done to some individuals—women and their families—in the community. As we have often said, the moral of the story is that, whenever anything is being negotiated, discussed or considered, there must be women involved. Although the sex discrimination which was introduced may have been inadvertent, it occurred because there were not sufficient women involved in the discussions who would have thought, 'Will this affect women differently than men?'. It is obvious that, when a negotiating team or a policy making body consists entirely of men, they do not consider whether, inadvertently, they may be deleteriously affecting women.

This reinforces the argument that I have been using for 20 years: that women need to be involved at all levels of our society to prevent injustices. I welcome clause 4. I hope that it can be proclaimed as soon as the legislation passes. If, for other reasons, it is not possible to proclaim the entire legislation, I hope that clause 4 can be proclaimed tomorrow, preferably, so that some justice will be returned to the women who have been most severely discriminated against in the past six months.

The Hon. T. CROTHERS: My remarks will be gender neutral but applicable to all sufferers who are covered by the content of this Bill. I am somewhat bemused that, every time the Parliament of this State faces amendments to the WorkCover legislation, we immediately, from the head of that bureaucracy, get statements about the state of play with respect to the blowout—increased always and never diminished. It is as if it is deliberately designed so that Mr Owens can guide this Parliament in its consideration of amendments and as to the path it should go down.

This belies recent statements of the Minister—and I hope he is right—who said that they had been enormously successful with occupational health and safety changes that his Government had made. You would not have to be an Einstein to understand that, in respect to injuries received by people in work relative to injuries sustained at work, the prevention of those injuries is an enormous adjunct to any cost saving provisions that might come before this Council. The problem we have, when we are asked at times to consider amendments to these Bills which cover injured workers who sustained their injury as employees of a particular employer, is that very often the Government and the press put at risk the people who are the victims of injuries at work. In other words, they blame the victims and not the system which exists in the workplace where they are put at risk because of sloppy or non-existent occupational health and safety practices.

If those injured workers are not entitled to get compensation out of a fund partially maintained by their employers, then the ordinary taxpayers of this State will ultimately have to pick up any moneys that they are left with as a shortfall as a result of their work-related injuries, so that—whether male or female—their ongoing life and that of their spouse (if they have one) and family can continue. Of course, there is an old trick which the State Government can try, and that is to disallow the injury in as rigid and draconian a fashion as possible to the injured worker so that the Federal Government and not the State Government has to pick up the costs. Of course, the Federal Government is not beyond the same trick of reversing the onus back onto the State Government.

This buck-passing has to stop. It is the victim with a work-related injury that this Parliament has to consider. This is the only place in this State where they can get justice, free from the clutter of very expensive legal fees if they determine to take their complaint into the court of jurisdiction where these matters are dealt with. I am sick of the fact—and I hope Mr Owens reads this—that every time we have matters that are related to his department up for consideration in this Parliament we immediately get a press release telling us to what extent the actuarial liabilities of WorkCover have blown out.

The Hon. T.G. Cameron: He might go the same way as the MFP boss.

The Hon. T. CROTHERS: I don't want to make any comment on that at this point in time. Perhaps as matters develop in respect to both those issues—the one that I have raised and the one that the honourable member has raised—there may be necessity for further comment. Let us stop blaming the victim. Let us get a position in place where the employers, who a lot of the time are responsible for the injury, contribute towards the cost of either the rehabilitation of the worker or lifetime earnings if the worker is so far injured as to never work again, and not the general taxpayer of this State.

We have to make up our minds: either the Minister is right in respect to his success in the application of occupational health and safety, which is a preventive measure, or he is not

right. Who is right—Mr Owens, or the Minister? They say that there is a blowout, whereas the Minister has indicated that occupational health and safety successes have been so great that they have prevented injuries from happening. Thus, one would anticipate, because of the compounding effect already correctly identified by Mr Redford in respect of actuarial blow-outs—

The Hon. A.J. Redford interjecting:

The Hon. T. CROTHERS: I understand that; it is a five-year cyclic process. Because of the time, I seek leave to conclude my remarks.

Leave granted; debate adjourned.

[Sitting suspended from 1 to 2 p.m.]

PAPERS TABLED

The following papers were laid on the table:

By the Minister for Education and Children's Services (Hon. R.I. Lucas)—

SAGRIC International Pty. Ltd.—Report, 1994-95

By the Attorney-General (Hon. K.T. Griffin)—

Reports, 1994-95—
Corporation Affairs Commission
Department for Building Management
South Australian Tourism Commission

Determination of the Remuneration Tribunal—Ministers of the Crown and Officers and Members of Parliament

Response by the Attorney-General to the Report of the Legislative Review Committee on the Criminal Injuries Compensation Act 1978

By the Minister for Transport (Hon. Diana Laidlaw)—

Reports, 1994-95—
Supported Residential Facilities Advisory Committee
Dental Board of South Australia
Department of State Aboriginal Affairs
South Australian Health Commission

Office of the Public Advocate—Report, 6/3/95 to 30/6/95.

PORT AUGUSTA HOSPITAL

The Hon. DIANA LAIDLAW (Minister for Transport): I seek leave to table a ministerial statement made by the Minister for Health regarding negotiations in respect of the Port Augusta Hospital.

Leave granted.

HINDMARSH ISLAND BRIDGE ROYAL COMMISSION

The Hon. K.T. GRIFFIN (Attorney-General): I move:

That upon presentation to the President of a copy of the report of the Hindmarsh Island Royal Commission, established pursuant to the letters patent approved on 16 June 1995 and as varied from time to time, the President is hereby authorised to publish and distribute such report.

Motion carried.

LANGUAGES CENTRE

The Hon. R.I. LUCAS (Minister for Education and Children's Services): I seek leave to table a copy of a ministerial statement made today by the Minister for Employment, Training and Further Education on the subject of the establishment of the Centre for Languages.

Leave granted.

QUESTION TIME

BAR STAFF

The Hon. CAROLYN PICKLES: I seek leave to make a brief explanation before asking the Attorney-General a question about proposed criminal penalties for bar staff.

Leave granted.

The Hon. CAROLYN PICKLES: It appears that the member for Unley in another place has proposed the imposition of criminal penalties on bar staff who are negligent in serving liquor to intoxicated customers, who then go out and commit an offence such as drink driving or even something more serious such as causing death by dangerous driving. Obviously, the Opposition is also concerned about those issues.

This call for substantial penalties on bar staff must be considered against the background of section 115A of the Liquor Licensing Act, which currently provides for a maximum $2 000 fine if an intoxicated person is served liquor on licensed premises. Both the person who serves the liquor and the manager of the premises may be prosecuted. The only defence currently available to a worker who serves liquor to an intoxicated person is a belief on reasonable grounds that the customer was not intoxicated. My questions to the Attorney are:

1. Does he support the recommendations contained in the discussion paper of the member for Unley and, in particular, does he believe that section 115A of the Liquor Licensing Act is inadequate in respect of discouraging the serving of liquor to intoxicated customers?

2. Should a defence be made available to bar staff on the basis that they are obeying an explicit direction from their employer to serve a particular customer?

3. Does the law adequately take into account a situation where customers in an hotel or nightclub are being served at such a pace that there is no practical opportunity to make a sensible assessment of whether a particular customer is intoxicated?

The Hon. K.T. GRIFFIN: I noted with interest the indication by Mr Mark Brindal that he was preparing a discussion paper—

The Hon. Carolyn Pickles: Did he talk to you about it?

The Hon. K.T. GRIFFIN: He did mention it to me—on the abuse of alcohol in our community. I think that his intention to try to draw together a number of threads in relation to alcohol abuse is laudable. Members will note that in respect of several of the matters to which he specifically refers he acknowledges that already there have been changes in the law as a result of legislation which I have brought into the Parliament. One such measure relates to crowd controllers, and that was in fact finalised this week under the Security and Investigation Agents Bill. In relation to crowd controllers, not only the issue of identification but also more particularly the issue of training was involved. Members will recall that in that Bill there is an acceptance of the need for mandatory training for crowd controllers as well as others who might be licensed under that legislation.

Mr Mark Brindal also identified the amendment to the Liquor Licensing Act which came into effect on 1 July, the section to which the Leader of the Opposition refers. A couple of provisions were enacted in that legislation. One was to empower the licensee to ban unruly patrons, for the first time giving to licensees the right to remove patrons from

premises for periods of up to three months: one month without a right of review and beyond one month and up to three months with a right of review by the Liquor Licensing Commissioner. To put that into context, previously the power for a licensee to ban was limited to 24 hours, and that was determined in practice to be quite impractical.

The other important provision is that an offence was created: it is now an offence to sell or supply alcohol to a person who is intoxicated. If found guilty, the licensee, the manager and the person who sold the alcohol each face a maximum fine of $2 000. That has been accepted by the liquor licensing industry as an appropriate provision in the legislation because it acts as a means by which licensees and employees could be required to accept responsibility. The Australian Hotels Association, for example, was undertaking an education program directed towards its employees with respect to this provision. When it comes to criminal liability for serving alcohol to a person who might then go out onto the road and drive, that is another issue: there is no provision in our criminal law which deals with that issue.

The Hon. Carolyn Pickles interjecting:

The Hon. K.T. GRIFFIN: I do not deny that. I am saying that there is no provision in our criminal law which specifically focuses upon a person who—if we look at it in respect of a licensed outlet—serves alcohol to a person who subsequently goes out, drives and either kills or injures someone as a result of driving whilst intoxicated. There is nothing in the criminal law which takes the responsibility back to the licensee of the licensed premises or the employee. If we extend the situation to which the Leader of the Opposition referred in an interjection, even those in a private home at a dinner party serving alcohol to someone who might then drive home under the influence and cause injury or death as a result of his or her driving, there is nothing in the criminal law which directly deals with that.

One can imagine that there would be some difficulties, for example, with a person who goes from one hotel to another. At what point does one have responsibility criminally and the other not? In any event, one has to ask whether that is a function of the criminal law. As Mr Ian Horne of the Australian Hotels Association is reported to have said, the trend in America is to impose that sort of criminal liability and, even if it were not criminal liability, the civil law has been so expanded that where there is a commercial transaction, that is, the sale of alcohol by an outlet to a person who subsequently drives whilst under the influence and kills or injures someone, then the criminal law is increasingly playing a role in that country in issues of liability and responsibility.

Quite obviously, when one comes back to the question of responsibility, every individual should be taking responsibility for his or her actions. There are a number of areas where that occurs. The fact is that Mr Brindal is entitled to raise the issue for discussion. It is a matter which has been on the agenda in the United States of America as part of a broad—

The Hon. R.R. Roberts: It didn't go through to your Party.

The Hon. K.T. GRIFFIN: It didn't have to. In our Party we allow our members to float ideas if they want to.

Members interjecting:

The PRESIDENT: Order!

The Hon. K.T. GRIFFIN: It is the fundamental difference between the Liberal Party and the Labor Party. We do not throw people out people such as Graeme Campbell for speaking their mind. What happened to Normie Foster in 1982? Normie Foster decided to act in the best interests of the State, and what did the Labor Party do? It tossed him out. He had the black ball.

The Hon. Anne Levy: We did not. He tossed himself out.

The Hon. K.T. GRIFFIN: He did not throw himself out.

Members interjecting:

The PRESIDENT: Order!

The Hon. K.T. GRIFFIN: Come on! What a cop-out.

The PRESIDENT: Order! I suggest that the Attorney just answer the question.

The Hon. K.T. GRIFFIN: Mr President, I cannot, with respect, be blamed for responding to interjections, but I will endeavour to avoid responding to those interjections, some of which demonstrate a clear and fundamental difference between the Labor Party and the Liberal Party in relation to its members. I was referring to the Hon. Norm Foster and what fate befell him. It may well be an argument that he put himself outside the rules, but the fact is that he took a decision in the best interests of the State, and it took a decision of the Labor Party Executive—

The Hon. T.G. Cameron interjecting:

The Hon. K.T. GRIFFIN: He is in the Party. He is going to stay in the Party.

Members interjecting:

The PRESIDENT: Order, the Attorney-General, the Hon. Anne Levy and the Hon. Ron Roberts!

The Hon. K.T. GRIFFIN: Mr Mark Brindal is entitled to raise the issues. He is entitled to have them discussed publicly.

The Hon. T.G. Cameron: A headline hunter; that's what he is.

The Hon. K.T. GRIFFIN: I don't care whether he grabs a headline or not. The Hon. Mr Cameron is pretty good at trying to grab headlines, too. If members wish to get into the public arena, that is fine for them, but they have to take what is coming to them when they do get into the public arena. Mr Brindal has floated some ideas. He has acknowledged that we have already taken action in at least two major areas in relation to alcohol abuse and he is entitled to raise the other issues. It is not on the Government's agenda to impose a criminal liability on employees or licensees in the circumstances where they serve alcohol and someone then goes out, drives whilst intoxicated and kills someone.

However, there is a liability—and I have explained it already—that if a licensee or an employee serves alcohol to a person who is intoxicated there is a criminal offence. That is where the offence lies. That is the law at the present time which has recently been enacted, and all licensees, the AHA and others applaud it because it is a progressive move.

The Hon. R.R. Roberts interjecting:

The Hon. K.T. GRIFFIN: If the Hon. Mr Ron Roberts cannot understand what I am saying, I will not repeat it again because I am sure a lot of his backbenchers are restless about the fact that it is taking me a while to answer the question. The fact is that Mr Brindal is entitled to raise these issues. The criminal liability issue is not on the Government's agenda, but Mr Brindal is entitled to raise it. He is entitled to stimulate public discussion because that will be good in relation to the discussion about responsibility and alcohol abuse. It is about responsibility and alcohol abuse.

Members interjecting:

The PRESIDENT: Order!

The Hon. K.T. GRIFFIN: Everyone has a point of view on different issues. It does not matter whether it is abortion, euthanasia, or whatever. If people want to express their view, they are entitled to do it. But, if they do express it, they also

have to expect that there will be responses, and there will be some responses which they may not like. It is all part of a framework of public debate and information. That is what Mr Brindal is doing and I commend him for it, even though the issues which he has raised are not on the Government agenda.

FORESTS

The Hon. R.R. ROBERTS: I seek leave to make an explanation before asking the Minister for Education and Children's Services, representing the Premier, a question about the ownership of South Australia's State forests.

Members interjecting:

The PRESIDENT: Order! I cannot give leave while everyone is talking.

Leave granted.

The Hon. R.R. ROBERTS: The Opposition has been leaked information that the Brown Liberal Government is actively considering the sale of South Australia's softwood forests to overseas timber interests. The Opposition has been informed that the sale of our forest assets, particularly those forests in the South-East of our State, to a United States giant company interest is being pursued by the Assets Management Task Force on behalf of the Government. This is despite the Liberal Party's election commitment in its forestry policy dated December 1993 which said:

> A Liberal Government will: retain ownership of our forest resource.

It also flies in the face of a commitment that the Premier gave to the people of the South-East last week in an interview published in the *Border Watch* on 21 November in which he said:

> Of course we are not looking at selling the forests.

The Liberal Government's own forest review conducted last year recommended that the management of the State's forests needed to be restructured to take it at arm's length from the Government to make it more competitive and market driven, but the review noted that this restructure did not need to imply any change of ownership of the forests. Yet the Government now has its sights set on selling another of our State's prime assets to overseas interests despite earlier assurances that no such sale would be considered. One may well ask how often are the people of South Australia to be misled by this Premier and this Liberal Government? My questions to the Minister are:

1. What guarantees will the Premier give to the Australian-owned sawmills in the South-East that they will continue to be supplied with log if the forests are sold to a monopoly overseas interest?

2. What redress would the South-East millers have in resolving royalty disputes with the private plantation owner?

3. What impact would the sale have on the local economy in the South-East given that existing sawmillers may be unable to obtain resource security? How many sawmills would close and how many jobs would possibly be lost?

4. What guarantees will the Premier give that an overseas monopoly owner of our State's forests would not manipulate the price of timber for domestic use and drive up the cost of new homes and other structures?

5. What guarantee does the Premier have that the new owner of our State's forests would not simply export log overseas for processing?

6. Would the sale of our State's forests not mean the selling off of the South-East of South Australia and its people?

The Hon. R.I. LUCAS: I will refer the honourable member's questions to the Premier and bring back a reply. Given the choice of the Premier's statements last week and acknowledged anonymous rumours that the honourable member has heard, I know which version of the situation I would accept.

BEACH POLLUTION

The Hon. T.G. ROBERTS: I seek leave to make a brief explanation before asking the Minister for Transport, representing the Minister for the Environment and Natural Resources, a question about metropolitan beach pollution.

Leave granted.

The Hon. T.G. ROBERTS: I and others have raised questions in relation to the preferred method of treating the effluent at Patawalonga. I use 'effluent' as a direct description of it because that is what the toxic sludge sitting over a rubbish dump is: it is a toxic sludge and should have been treated as such. The Government's preferred option was a ponding and dredging system whereby the wet sludge was pumped into a ponding and holding system using bunds covered by a shade cloth. The bottom of the Patawalonga and the sides of the Patawalonga were then to be removed with the toxic sludge being rehabilitated in a way that was conducive to that method of treatment. A dry treatment system could have been used whereby the Patawalonga's effluent would have been drained and ponded (making sure that it did not release into the sea) and then, once dry, treated by screen washing, etc.

I thought that the preferred situation the Government adopted would prevent any further release into the sea around Glenelg but, for whatever the reason, a request was made to drain the Patawalonga last night onto the Glenelg beach. That toxic plume has now moved up the beach towards Henley, and I am reliably informed that there is a toxic sludge from Henley Beach to West Beach. There is green algae present along the beach as well. Of course, the statements that I have heard from the EPA were that the conditions for release were not what they were expecting in that a north-westerly breeze blew up and did not take the sludge as far out to sea as was required. There have been calls for microbiological testing of the sludge to see whether there are any problems associated with human health. Not only humans but marine life as well has now been exposed to the sludge. My questions to the Minister are:

1. What is the nature of the algae that is present?

2. What dangers to health does the sludge present to swimmers, joggers, walkers, fish and marine life?

3. Will microbiological testing be done now?

The Hon. DIANA LAIDLAW: I will refer the honourable member's questions to the Minister and bring back a reply.

BUS SERVICES

In reply to **Hon. T.G. CAMERON** (25 October).

The Hon. DIANA LAIDLAW: In regard to the estimated savings outlined by all the companies that were unsuccessful in the Tender for the operation of bus services in the Outer North, I am advised by the Chairman of the Passenger Transport Board that all such details are commercially confidential. Each company bid for the work on the understanding their bids would be regarded as commercially confidential. Such terms have been the standard

practice in tendering situations for many years in both the public and private sectors.

ROAD SAFETY

In reply to **Hon R.D. LAWSON** (15 November).

The Hon. DIANA LAIDLAW:

1. In South Australia, the responsibility for the maintenance of the verges of most major and minor roads lies with Local Government. There is no legislation or formal policy of either the Department of Transport or Local Government that prevents the erection of memorials. Although the Department of Transport has tended to discourage this practice, it is tolerated where it occurs.

2. There are three regions in Australia where the signposting of specific accident sites is presently occurring: in the vicinity of Perth, in the Hunter region of New South Wales, and in the Millicent area in the South East of South Australia.

The Newcastle study and the Millicent experience suggest that the memorials are effective in linking the management of the grieving process for family, friends and community with a more generalised awareness of road safety as an important issue. Although there are those that argue that such schemes have no direct and demonstrable effect on crash numbers, it seems reasonable to infer that the schemes can provide *indirect* benefits through the focusing of community efforts on road safety, and through the implicit messages that are given to State and National road and enforcement authorities about the necessity to fund demonstrably effective countermeasures.

3. I have now seen reports of the University of Newcastle research, as well as of some more local research, and I make the following comments.

The unpublished evaluation study of the Hunter region signposting scheme, which was conducted by Dr Kate Hartig and Mr Kevin Dunn from the Geography Department of the University of Newcastle, was primarily concerned with interpreting the meaning of memorials, and only secondarily concerned with any implications for road safety. However, the interviewees were asked questions about the perceived effects on their driving behaviour of both shock advertising and sighting a roadside memorial. The researchers concluded that sighting a memorial was perceived to be more effective.

However, this result should be interpreted with caution, for the following three reasons. First, any *perceived* changes might not be *real*. As an instance, Dr Hartig has subsequently noted the case of a husband whose claim that the monuments had affected his attitude to driving was strongly refuted by his wife who insisted that she had failed to detect any change in his speeding behaviour. Second, the fact that the self-reported effects of the monuments were greater than those for shock advertising must be interpreted in the light of the fact that shock advertising on its own (unaccompanied by an enforcement campaign) has never been shown to have an effect on driving behaviour. Third, as pointed out by Dr Hartig, any effects found for spontaneously erected monuments might not transfer to officially sanctioned and organised schemes. It is her opinion that official schemes might *not* have the desired effect on the main target group of young males, who are likely to be affected only by *private* expressions of grief, and who have a tendency to 'tune out' from officially sanctioned messages.

The officially organised signposting scheme in the Millicent region has been described in some detail in a May 1995 report by the SGIC entitled *Putting Road Safety and Crash Prevention Forward*. Although claims have been made for the success of this scheme, a formal evaluation undertaken by Dr Jack McLean and Ms Vivienne Moore of the National Health and Medical Research Centre's Road Accident Research Unit of the University of Adelaide in May 1995 concluded that there was insufficient crash data to allow for any conclusions to be drawn concerning the effectiveness of the scheme in terms of crash reductions.

ROAD SAFETY

The Hon. DIANA LAIDLAW: I seek leave to reply to a question asked yesterday by the Hon. Sandra Kanck in respect of bullbars.

Leave granted.

The Hon. DIANA LAIDLAW: The Hon. Sandra Kanck yesterday asked a question about road safety, in particular, some specific matters related to bullbars. I gave some information yesterday but I want to highlight that I wrote to the Minister for Transport, the Hon. Laurie Brereton, about this matter on 15 October having received correspondence on the matter, in particular in relation to a vehicle fitted with a bullbar and how that could satisfy the requirements of Australian design rule 42.9.1. I received a reply on 22 November from the Hon. Neil O'Keefe, Parliamentary Secretary, in relation to transport, as follows:

> Thank you for your letter of 15 October to my Minister concerning bullbars. The Federal Office of Road Safety (FORS) has advised that the issue of bullbars is currently under review. A working group comprising Government authorities, industry representatives, road user groups and researchers has been convened and is considering a proposal to develop an Australian Standard for the design and mounting of bullbars. The aim in the first instance is to ensure that bullbars will be designed so that compliance with Australian Design Rule 69/00 for full frontal crash protection is not affected.
>
> Currently, there are no regulations anywhere in the world covering the design of vehicle front structure to minimise pedestrian injury. However, the Federal Office of Road Safety has commissioned a review on the latest research to determine how best to improve pedestrian safety. This could lead to the introduction of criteria for the measurement of injuries to pedestrians involved in collisions with vehicles. Such criteria could then be used to form an objective assessment of whether bullbars are likely to increase the risk of injury. Until that time, assessment of any bullbar to Australian design rule 42.9.1 [which was the question I asked] would be purely subjective.

I had indicated in the earlier letter that I considered it essential that any requirements in relation to the fitting of bullbars be developed and implemented on a uniform basis throughout Australia. In response to that part of the question, Mr O'Keefe advised:

> Vehicle manufacturers who are providing bullbars for new vehicles are taking reasonable steps to design units that minimise potential pedestrian injury without compromising the vehicle's crash performance. In summary, Governments and other interested parties are examining proposals for developing an Australian standard for bullbars. The Federal Government is also examining a proposal for establishing criteria for the measurement of injuries to pedestrians. Once these projects are finalised, we will be in a better position to properly examine the benefits and disbenefits of bullbars.

PORT ADELAIDE COUNCIL RATES

The Hon. L.H. DAVIS: I seek leave to make an explanation before asking the Leader of the Government in this place a question about Port Adelaide council rates.

Leave granted.

The Hon. L.H. DAVIS: I understand that the Port Adelaide council is probably the only council in South Australia which seeks to vary the Valuer-General's valuation on commercial, industrial and retail properties and vacant land which is used for rating purposes. The council employs its own valuer, who seeks detailed confidential information from commercial property owners about rentals and other details to make his own assessment. I am told that businesses that refuse to comply can be threatened with legal action.

In 1994-95, 280 assessments were varied from the valuation of the Valuer-General. Instead, the council's valuation of the capital value of land in those assessments was adopted. In 1995-96, the number of variations to assessments more than doubled to 579. The Port Adelaide council's valuation for the area for rating purposes for 1995-96 was $2 320 172 000. However, the Valuer-General's valuation was only $2 269 537 000. In other words, the valuation by the council was more than $50 million higher for commercial, industrial and retail properties and vacant land than that of the Valuer-General. A rough calculation would

suggest that the council could be receiving an additional $650 000 per annum in rate revenue. The budgeted rate revenue for 1995-96 is $15.434 million. This additional $650 000 represents a significant 4.4 per cent increase on the rates that the council would have received if, like other councils, it had followed the valuations established by the Valuer-General.

I understand these variations are almost invariably up, not down. They appear to lack consistency and, in many cases, are harsh, unfair and inequitable. The council's valuer appears to be more disposed to take one sale in the area—for example, a block of vacant land—and adopt that valuation for other similar blocks in the area. However, there is an old adage in real estate: one sale does not make a market.

Why is it that of the 579 amended assessments the vast majority are increased, particularly at a time when real estate values in the Port Adelaide council area, including commercial properties and land, are under great pressure, and in some cases prices are weakening?

Members interjecting:

The Hon. L.H. DAVIS: Before you start getting excited over there—the people who are supposed to care for the battlers—just listen to this. No. 147 St Vincent Street comprises a chemist, orthodontist and vacant offices. The Valuer-General valued the property at $171 000, the council at $310 000. That is a massive 81.3 per cent hike in valuation. It means that the owner of this property will pay about $33 a week more in rates. A group of 10 shops in Victoria Road, Taperoo (an area facing challenging times), had a valuation by the Valuer-General of $249 000. The council amended that to $362 000—a significant hike of 45.4 per cent. The Port Mall Shopping Centre was valued by the Valuer-General at $1.8 million, but the council's valuation was $2.358 million. This represents a 31 per cent lift and well over $100 a week in additional rates for the owner. I have been told that there is no consistency in these increased valuations. Adjacent shops, offices—

Members interjecting:

The Hon. L.H. DAVIS: The Labor Party is not interested in this question, which comes from its very heartland. I suggest that someone who has represented that area in the past, such as Mick Young, would be ashamed of himself.

Members interjecting:

The PRESIDENT: Order!

The Hon. Anne Levy interjecting:

The Hon. L.H. DAVIS: It's an opinion that you are saying he would not be ashamed of?

Members interjecting:

The PRESIDENT: Order! The Hon. Legh Davis.

The Hon. L.H. DAVIS: He would be supporting you in your flippancy, would he?

The Hon. ANNE LEVY: I rise on a point of order, Mr President. The honourable member addressed me as 'you' instead of addressing his remarks through the Chair.

The Hon. L.H. DAVIS: I wasn't talking to you; I was talking to' youse'.

The PRESIDENT: There is no point of order. I suggest that the Hon. Mr Davis ask his question.

The Hon. L.H. DAVIS: I have been told—

Members interjecting:

The PRESIDENT: Order!

The Hon. L.H. DAVIS: They are playing the capitalists rather than the carers over there, aren't they? I have been told that there is no consistency in these increased valuations. Adjacent shops, offices or land may be left untouched while a near neighbour may cop a 40 per cent or 50 per cent rate hike for no apparent reason. There is growing concern among property owners in Port Adelaide about this *ad hoc* and highly discriminatory approach by the Port Adelaide council to valuations for rating purposes. It is a rate rort and rip-off.

In the Port Adelaide retail precinct, there has been a move away from the shopfront stores towards the K Mart and Coles Old Port Canal development and adjacent shops. However, it appears that only small adjustments have been made by the Port Adelaide council to retail premises in this particular precinct, whereas shops closer to St Vincent Street have been hit with rate hikes, although many have been struggling to maintain sales.

Real estate agents in the council area have told me that they have property listed on the market which they cannot sell, even though it is priced at less than the valuation for rating purposes. There are other serious matters relating to the Port Adelaide council's aggressive approach to the valuation of commercial property and land. Leading property owners in the area have told me that the Port Adelaide council's unrealistic, uncommercial, inconsistent and inequitable approach to valuation will ironically depress property values and drive business from the area.

Whereas the Valuer-General charges only $130 to deal with an objection to an assessment for a property with, say, 20 shops, the Port Adelaide council charges $130 for each shop, a prohibitive expense of $2 600 for the property owner who wants to object. There is growing concern by many ratepayers and residents in Port Adelaide about poor administration and financial mismanagement at the Port Adelaide council. My questions to the Leader are:

1. Will the Government, as a matter or urgency, protect the interests of ratepayers by investigating the Port Adelaide council's increasing practice of varying the Valuer-General's valuation of property and land?

2. Will the Government include the Port Adelaide council's approach to valuation in any inquiry which it establishes to investigate the allegations of the council's financial mismanagement and poor administration which I have raised in previous speeches and questions in the Legislative Council this year?

Members interjecting:

The PRESIDENT: Order! That was an extremely long question of the type which, in the past, I have asked should not be put. We introduced matters of interest five-minute speeches. That question exceeded that time by 50 per cent. I suggest that questions such as that are really out of order. I do not think that such questions make this place work at all well. Once started on one side, they will be repeated on the other, and we will not be able to stop it. There was a lot of opinion in that question, too.

The Hon. R.I. LUCAS: I thought it was a very good question.

The Hon. T.G. Cameron: If you want to hear some good questions, come to the select committee tomorrow morning.

The Hon. R.I. LUCAS: The master of self-promotion! We will have to wait and see. I am pleased to see a member in this Chamber standing up for the battlers at the Port. That is what the Hon. Mr Davis is prepared to do and obviously what Opposition members are not. I am sure that there will be great concern when Port Adelaide ratepayers learn of the details—

Members interjecting:

The PRESIDENT: Order! One at a time.

The Hon. R.I. LUCAS: I am sure that there will be great concern when Port Adelaide ratepayers learn of the details that the Hon. Mr Davis has revealed in his question this afternoon. I trust that it will gain some publicity in the Port Adelaide area so that the ratepayers, in particular, can be made aware of the concerns that the honourable member has raised. I shall be pleased to refer his questions to or discuss them with my ministerial colleagues and bring back a reply as soon as possible.

LEAD LEVELS

The Hon. SANDRA KANCK: I seek leave to make an explanation before asking the Minister for Transport a question about lead levels at the intersection of Main North Road and Fitzroy Terrace.

Leave granted.

The Hon. SANDRA KANCK: Residents living near the intersection of Main North Road and Fitzroy Terrace at Thorngate are very concerned about the dangerous levels of lead concentration in the air, resulting in residents having unacceptably high blood lead levels. A Health Commission report released earlier this year was critical of lead outputs and the impact this has on people's health. Blood lead levels are measured in micrograms of lead per decilitre of whole blood. A blood lead reading of 10 micrograms per decilitre causes the following health problems: in children, impaired development, a decrease in IQ, growth and hearing. At this level, lead can be passed via the placenta from mother to foetus. The impact is not as great for adults at this level; however, they may suffer an increase in blood pressure.

Any intersection that has a heavy traffic density may have a reading of 10 micrograms per decilitre. However, at the intersection of Fitzroy Terrace and Main North Road the lead concentration in blood is almost 40 micrograms per decilitre. Of course, the health risks to adults and children at this higher level is much more severe. Children can experience a decrease in the production of vitamin D, which is important for calcium metabolism and prevention of rickets; a decrease in the speed of electrical messages along the nerves and early signs of generalised cell damage. Adults experience a decrease in hearing acuity and men suffer from an early sign of generalised cell damage and an increase in blood pressure.

The lead concentration in blood of residents living near the Fitzroy Terrace intersection does reach as high as 40 micrograms per decilitre. I have been informed by one resident that his daughter used to play in the garden adjacent to the roadway when she was four years old and it has been estimated her blood level reading at that stage would have been equivalent to between 33 and 55 micrograms per decilitre and, hence, she may have suffered a potential IQ loss of between seven and 15 points and potential development of physical abnormalities. As the Minister would know, lead would not be the only damaging emission in concentration at this and other major intersections. My questions are:

1. Has the Minister read the report released by the Health Commission?

2. If so, what measures does the Minister intend to take to reduce the health risk caused by traffic on major roads and intersections?

3. In particular, does she have any plans for the Main North Road-Fitzroy Terrace intersection?

The Hon. DIANA LAIDLAW: I will bring back a reply to the honourable member's question.

SERCO CONTRACT

The Hon. T.G. CAMERON: I seek leave to make a brief explanation before asking the Minister for Transport a question about the Serco contract.

Leave granted.

The Hon. T.G. CAMERON: The Minister for Transport must have read my mind: I intended to ask some questions about the question that I asked on 25 October regarding the Serco contract, but she has preempted me by giving me the answer this morning. I have a few more questions now. The Minister advised the House on 25 October that she would seek information from the Passenger Transport Board relating to the third question and provide the information to me. I have received an answer today from the Minister which reads, and I quote:

> In regard to the estimated savings outlined by all the companies that were unsuccessful in the tender for the operation of bus services in the outer north, I am advised by the Chairman of the Passenger Transport Board that all such details are commercially confidential.

Surprise, surprise! It continues:

> Each company bid for the work on the understanding their bids would be regarded as commercially confidential.

Such terms have been standard practice in tendering situations for many years, in both the public and private sector. Yet, the Minister was quick to falsely claim savings of $7.5 million over the term of the contract by the successful tenderer Serco. It seems they are able to release some of the information when it suits them to boast about the savings but they are not prepared to release the information about the savings if TransAdelaide got the contract. It makes one suspicious as to the reasons why—and I note that on a number of occasions the Minister has failed to state that the Serco bid was cheaper than the TransAdelaide bid. My questions to the Minister are:

1. Will the Minister advise, as of today, or to the best of her knowledge, the number of TransAdelaide employees who have transferred to Serco; the number who have accepted TSPs; and the total cost to Government revenue of people had have transferred to Serco or accepted TSPs?

2. Will the Minister advise what monitoring process has been put in place to ensure that the exceptionally high public safety standards set by TransAdelaide are maintained by Serco?

3. Will the Minister report to the House, or to me, the accident statistics for TransAdelaide for the 12 months prior to the granting of this contract?

4. Will the Minister provide the statistics for Serco after six and 12 months in order that a proper comparison can be made?

5. Will the Minister advise whether reports that Serco is attempting to cut workers' conditions of employment in the enterprise bargaining negotiations are correct?

The Hon. DIANA LAIDLAW: I am not sure what has confused the honourable member in this matter when he says that I have failed to advise why Serco won the contract. I have indicated time and time again that it is on price; it was cheaper; it offered a better price. It was some weeks ago that I released the figures on this, but, as I recall, it was $3 million a year savings. I do not know why the honourable member is uptight about the fact that I have failed to indicate why it won the contract: $3 million savings per year is pretty significant. It also won the contract on the basis of the range of service initiatives that were being offered. I have indicated previously that those matters were considered in the first

round of evaluation of the tenders. The second round was assessment of whole of Government costs. On every basis—worst, best, middle scenarios—I understand Treasury confirmed that Serco was by far the best tender for the Government to accept. It was on price and service quality in the first round and on whole of Government costs in the second round, which is as it should be in making a thorough overview of all aspects of the tendering process.

The honourable member also said that I had made false claims about the savings. There have never been any false claims; I have always indicated what the savings were on the basis of the current costs of operating the service and, in addition, we have been able to assess the whole of Government costs. In terms of monitoring processes, all tenderers—whether won by TransAdelaide in the south or Serco in the north—undertake to sign a contract which establishes various minimum conditions that it must maintain. If the conditions are breached, then it will be vulnerable in terms of the immediate continuation of the contract, or winning the contract again when it is re-tendered in a few years time.

It is also important to note that the Government has maintained all the assets in this whole issue of the competitive tendering of public transport. The Government continues to own the buses, depots and facilities such as the north-east busway. Therefore, if a bus operator does not perform, we still have access to the buses and facilities to resume the service by other means. That is very important in terms of guarantees that the Government can provide to passengers and the general public, including all taxpayers, because we have continued access to the facilities which are necessary to operate the service so that we are not vulnerable by having the private sector bring in its own buses, for instance, for the operation of the service and thereby leave us wholly dependent for the continuation of that service on private sector buses or facilities. In terms of the accident statistics, I can provide those figures for the honourable member. Is he looking for those figures just in relation to the Elizabeth depot area of responsibility or were they to come from across the system?

The Hon. T.G. Cameron: I want to be able to do a comparison between the last 12 months and the 12 months that Serco has the contract.

The Hon. DIANA LAIDLAW: I will get those figures for the Elizabeth bus depot area. I undertake to provide the figures in relation to six and 12 months for Elizabeth. I think that we should do it for all areas. Those figures are being kept and, to be fair, we may as well look at all contractors under this system, at TransAdelaide under the arrangements that apply now and post the new period of the contract, which is January 1996.

The Hon. T.G. CAMERON: As a supplementary question, I asked the Minister whether she could advise me, as of today or to the best of her knowledge, the number of TransAdelaide employees who have transferred to Serco and the number who have accepted TSPs. I also asked whether reports that Serco is attempting to cut workers' conditions of employment in the enterprise bargaining negotiations are correct.

The Hon. DIANA LAIDLAW: I am not sure what the honourable member means by cutting employees' conditions in enterprise bargaining. As I understand it, the enterprise bargaining process is an agreement between the work force and management, and if there is not agreement it is not registered, and if it is not registered, under our industrial relations system, it does not apply. So, it is a matter to be worked out between the work force and the company, or they are conditions to be agreed by any person who may not currently be employed by TransAdelaide but who may wish to work for Serco. I do not have the latest figures in terms of people who have sought to transfer from TransAdelaide to Serco, those seeking redeployment or TVSPs. As the honourable member would know, at all times has the work force been told that it has a choice in this matter and that its choice will be respected.

RABBITS

The Hon. A.J. REDFORD: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister for Primary Industries, a question about rabbits.

Leave granted.

The Hon. A.J. REDFORD: Over the past six or eight weeks there has been considerable publicity about the escape of the calicivirus to mainland Australia. A report on the radio this morning indicated that the timing of that escape would dramatically reduce the effectiveness of the virus. Today's *Stock Journal*, in an article entitled 'Rabbit virus spread losing momentum?', quotes the Yunta pastoralist, Warren Breeding of Teetulpa Station, as follows:

> . . . rabbit shooters would be 'pleasantly surprised' by the number of rabbits still remaining.

He estimated that about 50 per cent of his original rabbit population was still there, albeit not in the frightening numbers that were there before. The article continues:

> And northern pastoralists are continuing to report significant regrowth in vegetation, in the wake of the extensive rabbit deaths.

There is also a report to the effect that the sudden decline in rabbit numbers caused by the virus may result in a reduction in the numbers of introduced predators, as opposed to their switching to native animals. My concern is that some of the real positives may have been lost because of the incompetence of the situation on Wardang Island. The Hon. Michael Elliott raised this issue I think two or three weeks ago, when he expressed some concern about that.

I note that on 12 November Mr Bob Phelps from the Australian Conservation Foundation's Gen-Ethics Network called for an inquiry into bio-control and quarantine legislation and the Australian Quarantine Inspection Service, and in particular the role that it played in the escape of this virus. It is of concern that we may not have maximised the positive benefits of the calicivirus as a consequence of the incompetence of the Federal Department. In the light of that, will the Minister approach the Federal Minister for the Environment, Mr John Faulkner, and seek an urgent response to the following questions:

1. Why was Wardang Island selected, given its relative proximity to the mainland?

2. What islands more remote from the mainland than Wardang Island were considered for the controlled experiment of the rabbit disease?

3. If more remote islands were not considered, why not, given the benefits of remoteness in preventing an unplanned escape of the virus onto the mainland?

4. Did the Australian Quarantine Inspection Service sanction the use of an island so close to the Australian mainland?

The Hon. K.T. GRIFFIN: I will refer those questions to the Minister in another place and bring back a reply.

WOMEN POLICE OFFICERS

In reply to the **Hon. ANNE LEVY** (24 October).

The Hon. K.T. GRIFFIN: The Minister for Emergency Services has provided the following response:

Mrs Oldfield wrote to the Minister for Emergency Services on 14 June 1995 concerning the number of police officers at the Coonalpyn Police Station. She also wrote to Senator Crowley and Peter Lewis MP, who also forwarded their concerns on to the Minister. Whereas both of these letters were replied to in August 1995, it appears that Mrs Oldfield's letter was not responded to directly by the Minister as it was inadvertently misfiled. Any inconvenience that this may have caused is regretted.

The Commissioner of Police is responsible for the allocation of police resources. The transfer of Senior Constable Morgan was not based on a perception that a service for the special needs of the women within the community had diminished, but because she was successful in her application for the position of Officer in Charge, Ardrossan.

The Commissioner of Police advises that the Officer in Charge of Keith Police met with Mrs Oldfield to assure her that the concern that Tintinara would only be visited by police on a needs basis is incorrect. Coonalpyn and Keith Police both make regular patrols to Tintinara and surrounding areas and this practice will continue in the future.

Community services within the district are not under threat and an effective service to cater for the special needs of women, including the investigation of domestic violence issues, will be provided for within the local resources of the Murray Division.

Should Mrs Oldfield have any further queries she can contact the Officer in Charge of the Murray Police Division, on telephone (085) 35 6025.

COMMUNITY SERVICE ORDERS

In reply to the **Hon. T.G. ROBERTS** (24 October).

The Hon. K.T. GRIFFIN: The Minister for Correctional Services has provided the following response:

One of the objectives of the Community Service Program is to provide a cost effective alternative to imprisonment. Community Service assistance is provided to Government, semi-Government and non-profit organisations. Individuals within the community who, through ill-health or poverty, are unable to carry out certain projects, are also assisted.

In the past, supervision costs of the Community Service workers have largely been met by the Department for Correctional Services, although a number of organisations have met the supervision costs of their own projects.

In order to expand the use of the program, organisations have been requested to contribute to the cost of supervision. An average cost for a supervisor is in the vicinity of $140 per day with each supervisor capable of supervising the work of up to 15 Community Service workers.

Not all Community Service projects will achieve full 'user pay' status. Partial contributions will be made by some organisations whilst the Department for Correctional Services will continue to fund others because of their value to the community.

The Community Service Program has an equipment budget from which basis equipment is purchased to meet the needs of the program. This equipment is properly maintained and repairs are undertaken as required. Community Service recipients have always been required to provide specialist equipment and will continue to be required to do so.

The highest occupational health and safety standards are applied at all times. The Department for Correctional Services has recently won an award from WorkCover as the most improved Exempt Employer for accident prevention.

The Department for Correctional Services is a self-insurer. Community Service clients are not employees of the Department and therefore WorkCover does not apply. Clients are the responsibility of the Department and any claim for injury is dealt with by the Department. The Courts may become involved only if there is dispute about the extent of the injuries or the claim. This situation is fully explained to clients during their initial interview with Community Service staff.

Community Service is an effective means by which offenders may, in part, compensate the community for the costs associated with the offence which they have committed. It is also a cost effective alternative to prison.

The Government will continue this most valuable scheme and will take every appropriate opportunity to reduce the administration costs of the program. The existing trend encouraging 'user pays' will therefore be continued.

CAPITAL PUNISHMENT

The Hon. G. WEATHERILL: I seek leave to make a brief explanation before asking the Attorney-General a question about the death penalty Bill.

Leave granted.

The Hon. G. WEATHERILL: Today's *Advertiser* contains comments by Mr Michael Abbott QC about the Bill which was introduced by rebel Liberal MP, Mr Joe Rossi, the member for Lee. Mr Abbott attacks the introduction of this Bill into the Parliament—

The Hon. T.G. Roberts: He wants the job as the hangman.

The Hon. G. WEATHERILL: I would like to give it to him. Mr Abbott made several comments and came to the conclusion that, under no circumstances, should this Bill have been introduced: he totally disagrees with it. Does the Attorney-General agree with the comments of Mr Michael Abbott QC?

The Hon. K.T. GRIFFIN: Again I make the point which I made earlier, that in the Liberal Party members are entitled to act on matters of conscience as they see fit. Mr Rossi makes his statements in relation to the death penalty as a member who is entitled to exercise his right to identify his position in respect of a conscience issue. Capital punishment is a conscience issue within the Liberal Party.

Members interjecting:

The Hon. K.T. GRIFFIN: I have made quite clear publicly on a number of occasions that I do not support the death penalty. That does not mean that anyone who does support it should be prevented from expressing a point of view publicly or in this Parliament. The fact of the matter is that members are entitled to express a point of view but, as I said earlier, if they express a point of view they must expect that robust argument and differing points of view will be presented. That is healthy.

Members interjecting:

The Hon. K.T. GRIFFIN: Well, if members opposite do not welcome public debate, it disappoints me. I thought that within the Labor Party there was at least a view that there ought to be some reasonable discussion on important issues.

Members interjecting:

The PRESIDENT: Order!

The Hon. K.T. GRIFFIN: Maybe they do.

Members interjecting:

The PRESIDENT: Children, children! Members do not have to go on like this.

The Hon. R.R. Roberts interjecting:

The Hon. K.T. GRIFFIN: The Hon. Ron Roberts now says that they all ought to be hanged. I am not sure what he is talking about, because I understood that members opposite did not support the death penalty. If the Hon. Ron Roberts has a different point of view, maybe—

Members interjecting:

The PRESIDENT: Order! This must be the last day.

The Hon. K.T. GRIFFIN: —it reflects what I have been saying all along: that the Labor Party does not allow its members to express a point of view that is different from the Party line. Personally and politically, I think that is unhealthy:

it is symptomatic of some of the problems that the Labor Party has faced over many years.

Members interjecting:

The PRESIDENT: Order!

The Hon. T.G. Cameron interjecting:

The PRESIDENT: Order, Mr Cameron!

The Hon. K.T. GRIFFIN: The question of capital punishment is an important public issue. People are entitled to debate it. If they debate it, they should certainly do so responsibly on the basis of argument rather than just political point scoring. As I have said and as I repeat: the fact of the matter is that, personally, I am opposed to the death penalty.

WATER RESOURCES (IMPOSITION OF LEVIES) AMENDMENT BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 691.)

The Hon. DIANA LAIDLAW (Minister for Transport): I thank all members for their contribution to this debate. There are various amendments, which I suggest we deal with immediately in Committee.

Bill read a second time.

In Committee.

Clauses 1 to 9 passed.

Clause 10—'Insertion of division 3A in part ordinary 4.'

The Hon. DIANA LAIDLAW: I move:

Page 3, after line 28—Insert section as follows:

Report as to degradation of water in watercourse, etc.

38AA (1) The Minister or a catchment water management board may prepare a report—

(a) on the degradation of water in a proclaimed watercourse, lake or well and the factors causing the degradation; and

(b) suggesting measures to improve the quality of the water; and

(c) setting out an estimate of the cost of implementing those measures.

(2) The Minister or the board may cause the report to be published in a newspaper circulating generally throughout the State.

This clause provides that the Minister or a catchment water management board may prepare a report detailing the resource management issues for a particular resource and estimating the cost of implementing measures to improve the quality of the water. This amendment, together with an amendment to proposed section 38B which I will move shortly, will enable the Minister to set a levy only after such a report has been prepared. I understand that this amendment was prompted following further discussion with the Farmers' Federation and appears to clarify a number of concerns by associating the levy more specifically with a project.

The Hon. M.J. ELLIOTT: I support this amendment. Again, I note that the fact that the Bill was to be passed came to the attention of the Farmers' Federation only after I contacted it two days ago. In a panic, the federation rang the Government, and a meeting was then held out of which these amendments arose. I express grave concern about the speed with which the parliamentary part of this process has been carried out. We have had all sorts of arguments about how good the consultation was before, and some evidence of that was given during the second reading debate but that was not too flash.

However, when the whole thing goes through in two weeks for whatever reason, someone always misses out. In this case, the Farmers' Federation, which supports the legislation but with some changes which the Government would find acceptable, suddenly finds out at the last moment that it was happening. I put on the record that this amendment, as well as the other amendments that the Government will put forward, came about in that way. That is unfortunate, but at least in a very short time those issues were addressed. We can only hope that others have not been missed.

The Hon. T.G. ROBERTS: I put on record the same criticisms that I made in the second reading debate. I have had some discussions with the Minister for the Environment and Natural Resources during the break and he has given an assurance that the negotiations on those matters will continue.

The Hon. DIANA LAIDLAW: I will respond to the comments made by the Hon. Terry Roberts in relation to consultation and the discussions that he has had in recent hours with the Minister for the Environment and Natural Resources. The matters raised during the second reading debate related to the Minister's giving an undertaking to consult fully with the community before setting a levy and other matters in relation to the Murray River. I have the following advice from the Minister.

The Minister has already indicated that this Bill only provides the mechanism for a levy to be established, and that it will be established only after full consultation with the local community and when all other matters have been considered. I have spoken further with the Minister for the Environment and Natural Resources and am happy to reaffirm the foregoing undertaking on his behalf, that is, that the levy will not be set on the Murray River until there has been full consultation with the local community. Naturally, there will also be full public consultation in relation to all aspects of community management of water resources, including the formation of a catchment water management board for the area. If a water management board is established for the Murray River in the near future, consultation about the levy will be through the board, which will then make a recommendation to the Minister on the levy. Where there is no board this will be conducted by the Minister's department. Additionally, there will be a requirement to publish the report identified in new section 38AA, which we have just passed. This will set out the resource degradation issues that are sought to be addressed and will assist the consultation process and public awareness.

Further, in response to the concerns from the Hon. Mike Elliott, I appreciate that he has alerted the Farmers' Federation to this matter. I know it was involved in the initial discussions. It must have been as a result of an unintentional error within the Minister's office that the Bill was not forwarded to the Farmers' Federation. Again, I am pleased that it has received the Bill, that it has been able to comment on it and that we have been able to conclude discussions with it so promptly as to now place these amendments on file.

Amendment carried.

The Hon. DIANA LAIDLAW: I move:

Page 3, lines 30 and 31—Leave out subsection (1) and insert the following subsections:

(1) Where a report has been prepared and published under section 38AA in relation to a proclaimed watercourse, lake or well, the Minister may, by notice in the *Gazette*, declare levies in relation to the taking of water from the watercourse, lake or well for a financial year that does not commence more than five years after the report was published.

(1a) Levies declared under subsection (1) may raise the amount estimated in the report as the cost of implementing measures to improve the quality of water or an amount that is more or less than that amount.

The amendment links the setting of a levy to the costs identified as necessary to implement the measures referred to in the report published under new section 38AA. No levy can be set until such a report has been published. This amendment adds to the transparency of the levy setting process.

The Hon. M.J. ELLIOTT: I move:

Page 3, lines 30—Leave out 'The Minister may, by notice in the Gazette' and insert 'The Governor may, by regulation'.

First, I note that these amendments have had to be drafted in a dreadful hurry, our having only being told two weeks ago that the Bill was being introduced in, and was to be passed during, this session. It was not an awful amount of notice to enable one to prepare, particularly when we have matters such as the local government legislation hanging around the place as well.

As has already been indicated in previous discussion, there has been concern so far about the level of consultation and the adequacy of it. It does not mean that there has not been a great amount of talking, but whether or not it has been adequate and done in a suitable manner is another question. Also, there are questions of accountability and transparency.

It is because of those concerns that I have on notice a whole series of amendments which simply mean that levies could be disallowed. I would have seen them being disallowed if the Government had not been consulting properly and had not been carrying out transparent processes. This seemed to be one way of ensuring that those sorts of things did occur, and it was for that reason that these amendments were inserted.

The Hon. T.G. ROBERTS: I have looked at the reasons for moving from *Gazette* to regulation, and the Opposition has decided to oppose the Democrats' amendment on the basis—and it involves a bit of blind trust and faith—that, unless the Government does put together a consultative process, particularly with regard to this Bill in the Riverland (and it does relate to a number of other catchment management boards as well) that makes real consultation work, it is probably too late to use the regulation as a stick. On this occasion it is quite clear that, because this is a mechanics Bill rather than one involving specifics, those people negotiating the passage of Bill have underestimated how far the fire is in front of fire engine.

There are people who have lost confidence in the whole negotiating process because they expected to play some part in setting up of the mechanics that are involved. As I said in the second reading debate, the Government has a lot of work to do to overcome some of the damage that has already been done. The Democrats' position is to use the regulation as a last resort and to hold that position up to the Government to say, 'Well, look, if the Government does not get the negotiating parameters right, the regulation can always be disallowed and it will have difficulties in administering the whole of process in which you are involved.'

In relation to water catchment management, this is the second time we have given the Government some leeway in terms of the time frame to catch up with community negotiations. By not supporting this, the Labor Party is sending a signal to the Government to get the negotiating parameters right in order to ensure that the steering committee for the setting up of the water catchment management board receives the respect it deserves. The committee has been out there negotiating with the community and trying to prepare the groundwork for the introduction of the water catchment management board because it believes that it is necessary to put in place the programs that are needed to begin cleaning up the Murray River. The committee did not like being taken for granted. If the Government does not heed that warning, there will be another political price to pay: they will lose confidence and support in that area.

So, as an Opposition we are prepared to allow the Government the time and the leeway to put those negotiating parameters in place so that the regulations do not have to be used as a stick. This will allow the Government to issue levy notices through the *Gazette* (and hopefully still hold face with those people in the area) and have confidence that the negotiations carried out are real, meaningful and give expression to local people's views.

The Hon. DIANA LAIDLAW: Like the Opposition, the Government will not support the amendment. We argue that it is unnecessary because of the rigorous checks and balances already embodied in the levy setting and spending process. The levy may be set up only after a report on the resource degradation issues to be addressed has been published. The levy must specify the factors on which it is based. The levy will be specifically quarantined in a special fund to be set up for the purpose and will be reported on and regularly audited. The levy must be spent to benefit the area from which it is raised. The levy may be spent only to fund the activities of a water management board in the area or on other measures that directly benefit the resource.

In relation to funding activities of boards, these activities will have been decided through full public consultation (and I have repeated today the Minister's undertaking on that matter) and will have the support and endorsement of that community. The Minister has already given the assurance that no levy will be set without full public consultation. It has been argued that it is unworkable because of the procedures in terms of regulations where there is a capacity to disallow up to four months after the regulations have come into operation. In relation to a levy, this carries particular risks of inviting an administrative nightmare in terms of paying and repaying already paid levies and then remaking new regulations which, of course, can be disallowed again. So, in terms of levies we argue that this regulatory initiative of the Democrats is not appropriate.

The amendment is also inconsistent with the body of other levy setting legislation which exists. Council rates under the Local Government Act are declared through notice in the *Gazette*. Water and sewerage rates under the Water Works Act and the Sewerage Act are all fixed by notice in the *Gazette*. Levies under the Catchment of Water Management Act are fixed by notice in the *Gazette*, and water supply charges under the Irrigation Act are set by notice in the *Gazette*. In fact, drainage charges are set by notice in a local newspaper and do not even go through the process to gazettal. On all those grounds, that they are unnecessary, unworkable and inconsistent with other levy setting legislation, we oppose this amendment. There are eight further related amendments on file, and I suspect that this amendment would be treated as a test case and that the others would not be moved.

The CHAIRMAN: Clause 10 is a money raising clause through levies and, therefore, we can make only suggestions to the other House as to the amendments that we make. So, they will be put in a slightly different form. All of the changes to clause 10 will have to be put in that fashion, as

suggestions. However, the first amendment is a bit complex because we need a test case. The test is that there will be a suggestion that (1) be struck out, and if it is struck out the Minister can proceed with her amendment. If it is carried the Hon. Michael Elliott can proceed with his amendment.

The Hon. M.J. ELLIOTT: Mr Chairman, what say we simplify life? I think we know where the numbers are. It might be simpler if I withdraw the amendment just to make the rest of the procedures a little easier.

The CHAIRMAN: That would make it a little easier.

The Hon. M.J. ELLIOTT: Then I will do that first, Mr Chairman. While I am on my feet I would like to ask one question of the Minister. This Bill is about the raising of the levies, but clearly the question then becomes how those levies will be spent. I want to put on the record concerns that have been raised with me by people who are involved in soil conservation boards, many of whom are doing work which directly overlaps the sorts of things which may arise out of this. Again, they have been involved in no real consultation so far. After a number of years of work a number of them have just released their management plans in the last month or two; in fact, several Mallee boards have just done so. Will the Minister give some indication as to what consultation is happening or is proposed to happen with them and whether or not any thought has gone into the role they may play *vis-a-vis* whatever other structures are eventually set up in relation to the spending of these levies?

The Hon. DIANA LAIDLAW: In the longer term, the Government will look to a natural resource levy which would address some of the issues that the honourable member referred to. In the meantime, in relation to this Bill, I am restricted by my own knowledge and by the advice at hand to dealing with the issue of water resources and levies for this purpose. I suspect that there would not necessarily be a lot of relationship between the two, but we can make further inquiries with the Minister's office, to explore the area, if that is what the honourable member desires, and get back to him on this matter.

The Hon. CAROLINE SCHAEFER: Mr Elliott has referred now on several occasions to a lack of consultation with the Farmers Federation, soil boards and land management groups in certain areas, particularly the Murray Mallee and the Murray River area. To my certain knowledge, the local members for that area, Mr Kent Andrew, who spoke to me last night about this Bill, and Mr Peter Lewis, have been involved in ongoing discussions with the Minister and quite extensive consultation within their electorates. If some groups have missed out on that consultation that is something that needs to be looked at. But the implication that there has been no consultation is not correct.

The Hon. M.J. ELLIOTT: If the honourable member cares to look at what I said she would note that I said there may have been a quite a deal of consultation but a failure to get at some groups which should have been consulted far more than they have been. That is the point I made: it may not have been adequate as distinct from extensive.

The Hon. Diana Laidlaw interjecting:

The Hon. M.J. ELLIOTT: In some cases they do not have the vaguest idea what the proposals will entail, because they have not been involved in any way.

The Hon. T.G. ROBERTS: There was an expectation by the consumers and by those people who will be affected by the impact of the mechanics drawn up that they would be involved in not only the formulation but in designing the way in which the formula would be worked. There has been consultation, but I understood that they would not have been ready to report until late February or early March. They felt that, in regard to a Bill which introduced mechanics on how the proposed formula would work, they were not ready to finalise or make a recommendation on it. There may be some internal struggle about not wanting to become the buffer between the Government and the community about how the formula will apply. There may have been no agreement. We are saying that, in future, to get those negotiating parameters right, there has to be more energy and effort put into coordinating all those levels of consultation that need to take place.

As the Government is moving towards a new concept, it has to look at the existing structures of consultation on the ground. It is linking community-based, grower and user organisations and local government—people, particularly in country areas, who, if the overall negotiating package is not put together correctly, will feel left out of it. That is the point that we are making. The Minister has made certain comments which are on the record. I am happy that the consultation processes will continue. Local people will demand to be involved in matters of extreme importance rather than peripheral issues. Raising the levy, how it is structured and how it is spent are key issues in which people will want to become involved.

The Hon. CAROLINE SCHAEFER: It seems that there is some misunderstanding. The Bill sets up the parameters whereby those mechanics can take place. This is step 1. It is only if steps 2 and 3 fail that this argument needs to take place, as I see it.

The Hon. Diana Laidlaw: This is an enabling Bill.

The Hon. CAROLINE SCHAEFER: Yes.

Hon. M.J. Elliott's suggested amendment withdrawn; Hon. Diana Laidlaw's suggested amendment carried.

The Hon. DIANA LAIDLAW: I move:

Page 11, lines 5 to 16—Leave out subsections (1) and (2) and insert the following subsections:

(1) Money paid to the Minister in satisfaction of a liability for levies or interest under this division must be paid into a fund to be called the Water Resources Levy Fund.

(1a) The fund must be applied for the following purposes in such shares as the Minister thinks fit:

(a) providing funds to boards established under the Catchment Water Management Act 1995.

(b) any other purpose relating to the management, or improving the quality, of the State's water resources

(2) The Minister must, as far as practicable, allocate money comprising the fund so as to benefit proportionately the water resources in relation to which the money was paid.

This amendment requires that all funds raised from the levy shall be deposited in a special fund to be kept by the Minister until paid out. This is to ensure that the funds are separated from general revenue and add to the accountability of payments made from the fund. The fund may be applied only for funding catchment water management boards or for any other purpose relating to the management or improving the quality of the State's water resources, and it must as far as possible be spent to benefit the particular area from which the levy is raised. Again, the South Australian Farmers Federation wanted this.

Suggested amendment carried.

The Hon. DIANA LAIDLAW: I move:

Page 11, after line 18—Insert subsections and new section as follows:

(4) The Minister may invest money standing to the credit of the fund that is not immediately required for the purposes referred to in subsection (1a) in such manner as is approved by the Treasurer.

(5) Income derived from investment of the fund must be credited to the fund.

Accounts and audit

38K. (1) The Minister must cause proper accounts to be kept of money paid to and from the fund.

(2) The Auditor-General may at any time, and must at least once in each year, audit the accounts of the fund.

This amendment inserts new subsections relating to the ability of the Minister to invest the levies held in the fund, and any income from the investment must be credited to the fund. The amendment also inserts new section 38K, which deals with the financial reporting requirements for the fund.

Suggested amendment carried; clause with suggested amendments passed.

Remaining clauses (11 and 12) and title passed.

Bill read a third time and passed.

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

A quorum having been formed:

SOUTH EASTERN WATER CONSERVATION AND DRAINAGE (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 29 November. Page 671.)

The Hon. M.J. ELLIOTT: I rise to support the second reading of the Bill. It is another of those Bills that has been in Parliament for all of two weeks and is already going through the final stages in our House. It is totally unsatisfactory. I thought that there was a commitment that this sort of thing was going to stop, and yet a cluster of Bills came up about a fortnight ago and we were told that a number of those desperately needed to go through this session. There has been no question about support on most of these Bills from the Democrats or from the Opposition. But it is simply not good enough. The fact is that we can play a constructive role. We do not only oppose things: sometimes we provide amendments which the Government welcomes and accepts, and which members of the community welcome. As I said, it is simply not good enough for things to be moved through the Parliament this quickly. I stress again that the Government has to get its act together. We had an appallingly quiet time for the first couple of months of the session, nothing to do, getting up early—and now here we go again.

The Hon. K.T. Griffin interjecting:

The Hon. M.J. ELLIOTT: Your Bills have not been a problem in most senses. There have been questions of philosophy to be worked around, but there has not been adequate time to consider the ramifications. There is one issue that I want to raise. I had an amendment on file but I will not be persisting with it. This relates to clause 7, page 3, after line 4. We are talking about contributions being levied on private land, and under (3)(a) the Government had already exempted land which was subject to heritage agreement under the Native Vegetation Act. It seems to me that there is other land that it clearly would, and should, exempt as well. For example, I believe that there is a goal—at least in the Upper South-East—to revegetate, or put under trees, about 15 per cent of the land because the trees act as pumps, essentially, and help to lower the watertables. To that extent, that is part of the plan; some of it may be local native vegetation, some of it may be eucalyptus *globulus*, or whatever, being grown potentially for pulp and other purposes. Everybody says that is a good thing. Clearly, it would be a great pity if people were doing something to help solve the problem and were then charged a levy.

The amendment that I had on file was to make it clear that where land was being planted up, for the purpose of lowering watertables and assisting in controlling salinity levels, that an exemption would be granted. I subsequently have had a discussion with one of the Minister's minders and I have been informed that this will be adequately covered by subsection (3)(b) on page 3. In fact, the Government intended to cover not only vegetation but also some land that may be left as wetlands. As this person said to me, the days are gone when we will encourage people to drain every last swamp because, in fact, it has been the draining of swamps in some areas that has made the problems worse. Laser levelling and all sorts of things in some parts of the South-East have shifted the water elsewhere and changed watertables. I understand that under subsection (3)(b) the Government will not only look at land that has been replanted under trees—whether they be local, native or other—but also will look at wetlands. I am seeking from the Minister, either at the end of the second reading stage or in committee stage, an undertaking that is, indeed, what the Government intends under subsection (3)(b) of clause 7.

The Hon. K.T. GRIFFIN (Attorney-General): I thank honourable members for their indications of support for the Bill. All that I can say in response to the Hon. Mr Elliott's observations about the speed with which this matter is being progressed through the Parliament, is that I note the concerns which he has expressed; they are concerns which the Government shares on occasions, and, quite obviously, we do try to meet the normal conventions in respect of the consideration of legislation. Perfection will never be achieved, but I think that honourable members will recognise that at least in the last year or so there have not been the mad rushes at the end of a session—certainly not as much of a rush as there may have been previously in dealing with legislation. To some extent, the three sitting periods, rather than the two major sitting periods, may have helped to try to spread out the volume of work, but there is still a way to go to achieve an appropriate approach.

The Hon. M.J. Elliott interjecting:

The Hon. K.T. GRIFFIN: I did not want to let the Hon. Mr Elliott's observations go unremarked upon. I have noted the concerns which he has raised. Certainly, it is desirable for members to have reasonable opportunities to consider issues of importance in legislation introduced into both Houses. With respect to the issue which he has raised, I note that he does not propose to move his amendment which is on file. I personally had some sympathy with it, but I acknowledge that he has had some discussions with an officer of the department in relation to the issue, and that it is certainly within the power of the Minister to exempt in accordance with proposed subsection (3) of new section 34A. In relation to those areas which are unproductive in the sense of pasture development, grazing, vines, or whatever, it is not the intention that they be the subject of a levy.

The justice of it is quite obvious, that if there is significant effort to revegetate a piece of land and retain existing native vegetation which assists in the management of water in the drainage area, quite obviously that is beneficial rather than detrimental and, in those circumstances, I acknowledge that, as far as I am aware, it is the Government's intention to make exemptions in those sorts of circumstances. I cannot really give a commitment beyond that, but it is certainly within the

framework of what the honourable member has raised. I thank members for their support of the second reading.

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

CONTROLLED SUBSTANCES (GENERAL OFFENCES—POISONS) AMENDMENT BILL

Adjourned debate on second reading (resumed on motion).

(Continued from 28 November. Page 693.)

The Hon. DIANA LAIDLAW (Minister for Transport): Earlier in the second reading debate on this Bill the Hon. Mr Holloway asked a number of questions: first, whether the introduction of bronchodilators or puffers in school first-aid kits is part of a wider strategy to address the problems of asthma in our schools and communities. I have been advised that the introduction of puffers is a small part of an on-going strategy designed to provide a better understanding of asthma, its causes, effects and proper treatment. Examples of this include the Asthma Foundation, which has, first, a draft code of practice for the management of asthma in schools, which should be finalised shortly; and, secondly, a one-hour in-service training program for teachers, which will be piloted in the first term of 1996. In addition, Foundation SA will target asthma in 1996 with: first, a media campaign; secondly, a play about asthma for schools (and in that respect I am pleased to see the arts being employed in terms of health and education); and, thirdly, an asthma workshop for registered nurses.

The Hon. Mr Holloway also referred to an *Advertiser* article which observed that one option being considered by the State Government was classifying Rohypnol as a drug of dependence, which would force all prescriptions to be sent to the Health Commission for analysis. He indicated that he would appreciate an indication from the Minister about whether this course has been or will be followed by the Health Commission.

I have received advice that the Controlled Substances Advisory Committee looked at the reclassification of Rohypnol from 'prescription only' to 'drug of dependence' status but decided not to take unilateral action in this regard. South Australia is committed to the agreed principle of national uniformity for the scheduling of drugs and poisons. Changing the classification of Rohypnol in this State would lead to a disparity and confusion in relation to the packaging, labelling and regulatory controls that apply nationally. The recommendation will be referred to the National Drugs and Poisons Schedule Committee for consideration and, if agreement is obtained, implementation will be undertaken nationally.

A further issue relates to divisional penalties as opposed to penalties expressed in monetary terms. This is essentially a matter that has been promoted by the Attorney-General and agreed to by Cabinet in terms of the way we define penalties in legislation. It is the current Government's policy that penalties be expressed in monetary rather than divisional terms and, as the opportunity arises, Acts and amending Acts are being changed in this way. The Controlled Substances Act penalties are already expressed in monetary terms, and this Bill seeks to increase them to a more realistic level. I am pleased to note that the Opposition supports this initiative.

The Hon. Sandra Kanck asked about the training of teachers in the use of machines for administering puffers. The puffers that will be available in first-aid kits will be in the form of pressurised metered dose inhalers (the common name for which is puffers). Special equipment such as a nebuliser will not be required.

The only equipment required is a plastic tube or spacer, which is placed between the inhaler and the mouth of the person to whom the puffer is being administered, thus making administration easier and more efficient for children who are unable to coordinate the release of the medication and inhalation. Teachers will be trained in how to administer the puffer using the spacer, and a code of practice for the management of asthma will be supplied to trained teachers. I mentioned earlier that an in-service training program for teachers will commence in the first term of 1996.

There was a further question in relation to the amendment to section 63(5) of the Act relating to the adoption of codes, standards and pharmacopoeias. The name of the publisher or author and such other information as is necessary for identification of a code, standard or pharmacopoeia to be adopted will be written into the regulations.

The proposed amendment will require the Health Commission to maintain and have a copy of any code, standard or pharmacopoeia referred to in the regulations available for members of the public to read and study without cost. Adoption of acceptable codes, standards and pharmacopoeias by reference saves a great deal of repetitive administrative work. A standard for the uniform scheduling of drugs and poisons was adopted in the controlled substances (poisons) regulations on 24 January 1991 in order to achieve uniform national packaging and labelling controls, and that has worked well since that time. I have a reference to that regulation which I will provide to the honourable member.

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

JOINT COMMITTEE ON LIVING RESOURCES

Adjourned debate on motion of Hon. M.J. Elliott:

That the second interim report of the committee be noted.

(Continued from 29 November. Page 643.)

The Hon. M.J. ELLIOTT: At the last election the Government promised that there would be a parliamentary inquiry into the State's living resources, and that is one of the promises that it has kept. As I recall, it was set up on 10 May 1994. I think that, when we first met, the Hon. David Wotton probably thought we had a slightly smaller task than we turned out to have. The committee met on a large number of occasions and did quite a comprehensive job looking at the questions surrounding living resources. It has been pleasing that this committee, representing both Assembly and Legislative Council members, included the environment spokespersons of all three Parties. At the end of the day, we produced a consensus report. To have managed to produce a consensus report covering a fairly broad spread of issues in the environment was quite an achievement.

The report that was tabled yesterday could well prove to be one of the more significant reports that has come into the Parliament. It is certainly the most significant report in the environmental area to come into the Parliament during my 10 years. Some people might have expected that, if we were to have a committee on living resources, we might have spent out time just looking at endangered species and taken a very narrow view of what living resources meant. However, the committee developed a very broad view quite quickly and recognised that it is dangerous to take an approach that picks

up individual species and talks about their survival and, if one was serious about the living resources, there was a necessity to take a holistic approach. When I say 'a holistic approach', I am not talking just in terms of the living environment alone: I recognise that the living environment interacts with the social and economic environment and, if we want to ensure that the living environment is in good condition, one needs to look at economic and social issues as well.

The committee proposed a total of 12 key recommendations and, further to that, a series of actions. Too often committees propose a series of recommendations which are fairly general in nature and do not point to how the implementation may occur. Having proposed 12 general recommendations, the committee proposed a series of actions or implementations to achieve the goals of each recommendation. We have also taken it a step further and identified the Government agencies that would have prime responsibility for ensuring that those actions were carried out. In introducing at this stage an interim report, we have sought to put before Parliament, the Government and the public the recommendations and actions that we believe can take us along the path towards protection of our living resources. Specifically, we have sent copies of this report and the identified actions to the individual agencies identified in the report and invited them to respond in approximately three months.

By this action, the report will not disappear into an ether. Agencies will be challenged to consider whether or not they are prepared to pick up those actions and, if not, why not. If they feel that there is some merit in amending it in some way, they might respond to that as well. This would then give our committee a chance to look at the responses that the various agencies make and, on the basis of those responses, there could be an amended final report.

Having given a general overview of the report, I will briefly refer to some of the key recommendations and actions. Of course, interested readers of *Hansard* can always contact the Parliament to obtain full copies of the report to get the finer detail. The first recommendation concerns ensuring that conservation and development of South Australia's living resources takes place within a policy framework formed on the principles of ecologically sustainable development. That is a generalisation, and some people would say that it is almost a motherhood statement, but it is the actions that are important.

The first action that we call for is an examination of alternative measures to GDP for evaluating economic performance. A number of economic thinkers today are questioning the true value of GDP as a measure, because GDP simply measures effort, and that effort may not always be constructive. Motor car accidents, the hospital bills and the repair bills and everything that result from them are all factored into GDP. If I pollute a site and clean it up, the cost of cleaning it up goes into GDP. GDP measures effort only: it does not measure whether that effort has given a useful return to society or to the individuals within it. It is possible that a GDP that is growing at a slower rate than ours currently is can give a far better quality of life and something more meaningful to people. There is a challenge and work is being done in some areas to find other measures of economic performance which are more valuable.

Part of that could be covered within action 3, which has also been directed to Treasury and which is to continue research of resource accounting practices to place a value on the State's environmental assets. We place a value on land, but do we place a value on the fact that we have particular species of fish in the sea? The fishery is worth so much per year but, if the fishery collapsed and did not recover, there would be no long-term value. What is in the ground has a value. Once we have dug it up and sold it, we have the cash in hand but we no longer have the ore. We are actually depleting a capital asset in the process. Treasury needs to produce a system of keeping the books that measures not only our cash but also the value of the State's resources as a whole. It is quite possible that our cash reserves could go up whilst our physical resources deplete quite rapidly. In the long term, that is a potential threat.

Recommendations have been made in relation to taxation, namely, whether we should shift taxes from income and production to activities that cause environmental degradation. We think that there is a need for an understanding of ecologically sustainable development across all departments and, as a consequence, action No. 10 of that first recommendation suggests that, where no environmental representative exists, key economic and development bodies should appoint a representative from the environment portfolio to advise on environmental issues.

I will give an example of the role they might play. Tourism could go in a number of different directions. We have a wide choice of locations as to where we can put developments, what form those developments take and the sort of tourist we are trying to attract. Some development actually detracts from the long-term viability of tourism because it is simply physically unattractive. It might actually degrade the environment, which is what some people come to see. The downside there may be unacceptable. If a tourism body has an environmental representative on it who can point to the downside of particular proposals, we may have a more sensible evaluation as to what sorts of tourism resort we might encourage in South Australia in terms of location, form or whatever.

Recommendation 2 is that we should develop a more transparent decision making process with genuine opportunities for early and ongoing community participation. Our principal focus there was in relation to environmental assessment process and development plan amendment process. The committee's view was that, if there were early opportunities to identify genuine community concerns, there would probably be two benefits: first, if there are environmental difficulties with a particular project they will be identified so that the project can be modified; and, secondly, at the same time the developers would benefit because they would not then face community backlash in relation to their project. I note that, in relation to the St Michael's site development and the actual summit at Mount Lofty, the Government involved itself in community consultation at the beginning before there was commitment to a particular project. The feedback I have received not just from conservation groups and local government people involved but also from people representing developers is that the process worked extremely well. I would like to see this process spread across the development assessment area more generally.

Recommendation 3 is to develop and actively support environmental education programs throughout Government to change current unsustainable practices. In fact, there are two areas where this would work. First, it would work entirely in-house in terms of whether or not the practices of departments are the best. It could be an analysis of energy usage, which includes heating, lights and those sorts of things

within a department which, incidentally, can produce significant economic benefits. Secondly, it could relate to the external practices of Government departments. If officers of Government departments are spraying stream sides with weedicides which are toxic to invertebrates, or even to vertebrates such as frogs, there needs to be a program that informs officers and makes them sensitive to those sorts of things.

Recommendation 4 seeks to complement current efforts to establish and maintain a representative parks system by developing and implementing an integrated land management approach for the sustainable management and re-establishment of native vegetation. It is recognised that it is not possible for the national parks system to include within it a total representation of the different vegetation types, and, of course, the animals that go with them. Land outside of national parks needs additional protections and assistance, and in some cases it might go as far as having to re-establish some communities. The action called for in this case is for the Department of the Environment and Natural Resources and the Natural Resources Council to review the establishment of bio-regional boundaries as a basis for integrated land management and integrated natural resource management. Having established bio-regional boundaries, one is then in the position to look within those bio-regions and answer the question: 'Do we have sufficient representation of particular biological communities?' One can then set about addressing any deficiencies.

As to recommendation 5, to establish a national representative network of MPAs at a scale to ensure the conservation and sustainable use—that is marine protection areas—of the State's coastal and marine environments, I believe that South Australia at this stage has an inadequate system of marine protection. There are a small number of reserves. I do not think there are any official parks at this stage. We certainly have some private member's legislation in relation to the Bight area, particularly to assist in the protection of whales and sea lions. But just as there is a need to identify bio-regions on land, there is also a need to look at bio-regions and significant areas in the marine environment so a representative sample of the various marine communities are also offered protection.

Recommendation 6 is to have the biological survey program completed by the year 2005. It is rather ironic that we have had an accelerated program of identification of mineral resources, which has been quite an expensive program, but we have failed to look at the biological resources. Some people's immediate response is that we can make money out of one and not the other, so we needed to accelerate it. But the flip side is, if you do not have adequate biological information but you have identified an area which geologically is interesting, you have set yourself up for a conflict, because there will be an argument about whether or not the area of geological interest is of biological importance.

There is only one way to answer that question accurately, and that is to make sure the biological survey has been as comprehensive as the geological survey. At the end of the day, the economic interests of the State would be served by making sure we do have sufficient biological information so that we can have accurate debates about whether or not there will be a real impact. It is possible that some potential mining operations, etc. could be stopped simply because we do not know how great the impact will be. That would be unfortunate. As a person who is a strong environmentalist, I often find myself having to adopt the precautionary principle: you know that if a particular development goes ahead, certain things will be lost, but how significant that loss will be is difficult to assess without the broader knowledge that you would have from comprehensive Statewide biological survey—something which is running in this State but at present speed I believe could take another 15 or 20 years at least, and that is just too long to wait.

Recommendation 7 is to develop integrated approaches for the control of pest plants and animals as a priority. It is recognised quite clearly that pest plants and animals are a major threat to our endemic living resources, and that has been addressed by that recommendation and three actions that come from it.

Recommendation 8 is to review a range of Commonwealth and State options to generate the necessary funding to support improved conservation and development of living resources. Probably it is in this area where there is a potential for some conflict. We talk about a market-based approach for setting of user pays fees, collecting royalties and fees for exploration of mining in parks and for allocating moneys from these sources to supplement current funding for the management of the reserve system. I, for one, have opposed and will in the short term oppose mining in national parks. The reason for that is really based upon the precautionary principle I have talked about before. In the absence of an adequate biological survey that indicates the health of our biological systems, to actually contemplate going to national parks which are supposed to be areas offering a high level of protection, I find unacceptable.

On the other hand, if the biological survey had been carried out, it would be possible to identify areas within parks which are not of great biological significance. Equally, we might identify some areas outside the parks system which have great significance, and we would then be able to say, 'We don't mind you mining in that national park, because it is of low significance and there is an area outside which requires protection.' But we cannot answer such questions without the statewide biological survey being complete. The precautionary principle states that we cannot contemplate in the short term people going into largely pristine areas and mining without knowing the full extent of the damage they will do. Again, the interests of mining and development generally would be served by getting the biological survey completed.

Action 4, under recommendation 8, talks about exploring the ramifications of increasing the opportunities for trade in wild species. A couple of years ago we debated the farming of emus, and I supported the legislation with two reservations about the wild species that people may want to farm. First, it is a truism that once we start farming, whether plants or animals, we usually undertake breeding improvement programs. Understandably, we would want plants to have bigger flowers, animals to give more meat, or whatever is the characteristic that we want out of the species, so they would be genetically altered.

Of course, there are risks. If someone grew thousands of hectares of wildflowers in the same area as large populations of the same species were growing wild and the farmed variety was genetically altered to a significant extent, it could have a dramatic impact on the wild populations. In fact, they could be wiped out.

There is a similar risk with wild animals. If the population of the farmed species was significantly larger than that of the wild species and they were not kept separate, there could be significant genetic contamination of the wild population,

which could be put at risk. My first reservation in relation to the farming of wild species is that there must be a genuine attempt and methods developed to keep the farmed and wild populations separate.

Another issue relating to wild animals is that, as they have not been farmed for thousands of years, as have cattle, sheep, and so on, generally speaking, they are far less amenable to standard farming practices. Some people have enough problems with animal welfare in relation to farmed species (generally speaking, I do not have problems there, at least in the broadacre context of farm animals), but I think we need specialist rules on how individual species are to be handled for reasons of animal welfare. If those two issues are addressed and the integrity of the wild populations is ensured, I do not have a problem with farming and trade in wild species. However, without those reservations being met, I would be a strong opponent.

Recommendation 9 refers to the development and implementation of strategies for achieving greater integration across all levels of government towards integrated natural resource management. We have problems within a single tier of government, because some people seem to think that natural resource management is not their business but something that the Department of Environment and Natural Resources has to worry about. Therefore, we need to ensure that there is awareness and better communication between the different tiers of government, and a number of actions are recommended in that regard.

Recommendation 10 refers to pursuing all avenues for advancing new commercial ventures based on sustainable utilisation of native flora and fauna. I have already touched on that in relation to a previous recommendation and will not make further comment.

Recommendation 11 is to support the development of an ecotourism industry that is ecologically sustainable. Some people realise that tourism offers a major opportunity for South Australia. We also realise that perhaps we have been lucky that we did not go through the boom that Queensland went through, where it really messed up. We have a product that Queensland could not hope for. We can offer genuine ecotourism in South Australia, but that has to be done very sensitively or we will destroy the very thing that people come to see. So from both an ecological and an economic viewpoint, we need to get it right. So far, South Australia has done pretty poorly, particularly in terms of site location for some of the developments.

The Tandanya development on Kangaroo Island was a classic example. They came up with a proposal which involved the clearance of several hundred hectares of native vegetation in an area where people go to look at that native vegetation, and it included a number of rare species. Yet within 300 metres of that site there is bare farm land. They could have built the development on the bare farm land within 300 metres and, if they still wanted a few more trees on the far side, in the time that the debates went on they could have planted them and got them up.

An honourable member interjecting:

The Hon. M.J. ELLIOTT: Well, regardless of who was doing it, it was badly done. It is only just one of a number of examples. The proposed Wilpena resort was another classic example of an appalling location. More recently—and it involves not just the previous Government—there is the present Government's involvement in the Wirrina development. I do not know what possessed it to encourage a development which had several hundred houses—

An honourable member: It was there in the first place, near Wirrina.

The Hon. M.J. ELLIOTT: No, Wirrina was; several hundred houses were proposed to go right along the ridge tops, and this was quite contrary to the Mount Lofty Ranges Development Plan and to the cost management plans that were in place. This so-called ecotourist development had the biggest township within 40 kilometres being built around what was otherwise theoretically a tourist development, yet it was a residential development. It was totally out of place. I did not hear anybody complain about the expansion of the tourism components of Wirrina, but the housing component and its insensitive location and scale caused grave problems.

Again, some maniac, sitting somewhere in a bureaucrat's chair, thought it was all a terribly good idea at the time. It does show why you need people involved who have a fairly broad perspective and are not simply wearing their tourism hat and being accompanied by people saying, 'You need to look more broadly and take other matters into consideration.' As I said, at the end of the day, tourists will not come to the Mount Lofty Ranges to see mountains where every hilltop is covered in houses.

Recommendation 12 was that this report be distributed for comment and evaluation responses. I guess just how much impact this report will have we can judge in three months time, after we have seen how the various Government agencies have responded to the recommendations of this report. I urge all members to have a look at this report. It contains a great deal of commonsense. At times it makes some quite radical suggestions. However, again I underline that this report is a unanimous report of all members, representing both Houses, all political Parties and the three environment spokespersons of the Parties in this Parliament.

The Hon. T.G. ROBERTS: I rise briefly to note the tabling of the report and to congratulate the honourable member for his contribution. The honourable member did the report justice, but there is still a lot in there for those who are interested in the detail of the report. I would recommend that those who read *Hansard* and who are interested in the report should make an application and get a copy of the report.

The honourable member did do it justice but there is still a lot in there for those people who are interested in the detail of the report to make an application to pick one up. It is a definitive work for establishing benchmarks for the future. I congratulate the Minister for being dogged enough to continue to get the report finalised, and also Jackie, our secretary, who did a very good job in keeping our noses to the grindstone.

The Hon. M.J. Elliott interjecting:

The Hon. T.G. ROBERTS: I will incorporate the Hon. Mr Elliott's appreciation to Jackie for the formulation of the report. She has a solid interest in the subject matter, and it makes it much easier for members when that does occur. She certainly did not go to the point of being bombastic or pushy in relation to her own position, but she certainly reminded us of those items which had been discussed and which needed to be incorporated in the report, and where priorities needed to be set to keep our minds on the job in relation to finalising the report.

I hope that the report acts as a blueprint for the Government and, as a way forward, I would not like to see it gather dust. One of the reasons we suggest that it be sent to all departments is that all Ministers should be reminded of the recommendations that are inherent in the body of the report

and how they should apply to each department. This basically goes back to recommendation 1, which is perhaps, as the Hon. Mr Elliott describes, the motherhood statement. It is also the basis of the philosophical position that underpins the report, and I quote:

> The joint committee recommends that the conservation and development of South Australia's living resources take place within a policy framework formed on the principles of ecologically sustainable development and that this framework serve as a basis for sustainable economic growth.

I hope that signals to all departmental heads and to all departmental workers and officers that the report is actually saying that the environment should be the first consideration when adopting policies towards either development and/or rehabilitation of degraded areas of the environment. It is taking a snapshot of where we are now. We have had 200 years of settlement and many mistakes have been made by previous generations. We have taken the responsibility of identifying those mistakes and highlighting where we are now in relation to an overall environmental stocktake, if you like, and what needs to be done to implement policy to put the environmental questions first, so that all other questions then emanate from the environmental base.

If one was considering the Wirrina development, if you were to take environmental questions into account, and if you were to look at other reports that have already identified the problems associated with a development the size of Wirrina, the starting base would be, 'Is Wirrina an ecologically sustainable site or a site that is worth developing for a township the size of the proposal being considered?' Your answer would be 'No'; it is not a site where you would put 6 000 people. The southern Fleurieu Peninsula—the winding roads, the gullies, the hills, and the local environment—is one of those nice drives where you would take visitors. I am sure that the Hon. Mr Stefani and others have taken international and interstate visitors there. One of the easiest things to do is throw your passengers into the car, drive down the Fleurieu Peninsula, head for Victor Harbor or Goolwa, or drive into the hills and have a look at the amenities that are offered by the natural geographic formations and see the way in which our foreplanners provided an environment where living, recreation, work and other activities all jell together without impacting on the environment.

There are some bad examples of where primary industries have over-cleared, particularly on some of the hilltops and in some of the valleys but, in the main, the environment is not beyond re-establishing to its original condition or back to a condition that overcomes those degraded problems. Unfortunately, putting up a proposal at Wirrina that will have 6 000 people will put added pressure on that area. Most of the people who live there will have to carry a brick in both pockets to stop themselves being blown from the hilltops down into the township of Victor Harbor or even farther into Goolwa. I am sure there will be many Marcel Marceau impressions of walking into the wind when people go for their hilltop walks along the tops of the cliffs, because the wind very rarely stops blowing down there. I hope the sales people take them out on clear, still days, otherwise they will have trouble selling the blocks.

But that is one development that should never have gone ahead if the principles were to be put together and used as a benchmark for a starting point. There are other illustrations of inappropriate developments being sited in inappropriate places. That is not to say that members of the committee were anti-development. We would be saying that, if you have a development that needs to take into account the fact that standards of living need to be maintained, jobs and roads created, you look at appropriate areas in which those can be located so that those developments can adequately complement the growth of a particular region but not be a blight on the landscape or add to the degradation of the landscape in that area.

One of the things we did in the report was to highlight examples of environmental decline in atmosphere, in surface waters, in marine biology and on the land, and do a brief stocktake of the biodiversity of those areas, then have a look at how the atmosphere is affected and put out some suggestions as to how to rehabilitate and how to prevent. One under-discussed and under-studied area of environmental protection in the community has been highlighted here, that is, in relation to doing a statewide biological survey to establish the biological differences and what exists at a particular time. The recommendation for that is quite strong, in order that we know what it is that we are actually studying, so that the best scientific evidence available can determine the fragility or sustainability of that ecosystem and what sorts of pressures it can handle, if any.

It may be that it has to be set aside for wilderness without any human interaction. It may be that some human interaction is possible. In other areas development processes could be sustained. What the report is actually highlighting is that you do your statewide biological survey and then work back from there as to what you can integrate into that region. Another reason for doing a biological survey would be to put a cost on rehabilitation and/or damage caused. If you take a large oil spill in the Spencer Gulf and put a cost on it for the State to rehabilitate that particular area of the gulf, whether it be the cost or value forgone in fishing grounds, the damage done to the environment, whether it can recover or what sort of biodiversity exists in that area, you are actually able to assess it because you have done a biological survey.

There is nothing worse than trying to put a cost on ecological damage when you have courts arguing about what does or does not exist because, after the trauma, it may be that nothing exists. Lawyers would then have a feast in assessing the value of a particular biological area. I am sure that lawyers, being the good ecologists they are, would get on with the job very quickly and come away with a good determination. A growing number of the legal fraternity are now specialising in environmental law. We would argue that the environment quite rightly takes priority in recognition of the state of the State.

We should set some benchmarks and then work from that. As I said, I will not go through the report in depth. Some of the principles to which I have alluded establish the credentials of the report. I hope that members read it and that departments take note of it. It is the second interim report of the joint committee, and we hope to continue much of our work. We have taken on the difficult issues of identifying problems associated with our native wildlife and the harvesting of native seeds for native plantings. The committee also heard evidence from people in the restaurant industry who were starting to specialise in native foods.

It also heard evidence of employment opportunities arising from rehabilitation of the ecology, trying to identify some of the strengths and weaknesses that could provide employment in regional areas, particularly for Aboriginal people who may be able to assist in identifying edible species, which could be used in the restaurant industry for both local consumption and export. There is something for everyone. Hopefully, we will

be able to stimulate discussion, debate and some forward planning around many of the issues raised in this report, and I recommend it to the Council. I hope the Government adopts the principles within the report and allows Minister Wotton to drive the program forward through the Cabinet so that he is elevated to, at least, number two position in the Cabinet, and that every other Minister must—

The Hon. R.I. Lucas: Deputy Premier, is that what you are saying?

The Hon. T.G. ROBERTS: Yes. Ideally, every other Minister should consult with the Environment Minister before they make development plans.

The Hon. R.I. Lucas interjecting:

The Hon. T.G. ROBERTS: You always consult him and then you say, 'Sorry, that gets in the way of my project.' I hope that the priorities set within the report are adopted, together with the environmental, planning and development aspects and that due importance is given to them. The committee recommended that environmental advice be given at a key level before projects commence. For example, if a committee is established in the Auditor-General's office, environmental advice should be the starting point for any recommendation from the committee. Around every planning, development and decision-making table we should have someone able to give advice on the environment so that it becomes a key element in the planning processes for all other projects.

Motion carried.

SOUTH AUSTRALIAN WATER CORPORATION (PUBLIC INTEREST SAFEGUARDS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 29 November. Page 682.)

The Hon. T.G. CAMERON: I still have a number of matters that I wish to go through in relation to the question of the Bill before the Council and the water contract. Yesterday I made some reference to the trumpeting by the Premier and the Minister for Infrastructure that this will be an Australian-owned company, with 60 per cent Australian equity and six directors who will be Australian residents. I note that the word 'resident' and not 'citizen' was used. However, there seems to be some confusion in the minds of Government Ministers. I will come to that later when I compare some of the statements made by the Premier and Mr Olsen, how they contradict each other and how they contradict statements made by United Water International Pty Ltd.

The question of the six directors concerns me because, if it is proposed that when the company is established it should have 95 per cent foreign ownership, as anybody would know, unless those shareholders are specifically restricted from being able to vote, CGE and Thames will be appointing the directors. The shareholders would elect the directors. The Hon. Robert Lawson QC is much more up to date on all of this than am I, but I cannot see how this promise—

Members interjecting:

The Hon. T.G. CAMERON: I do not think any of the Government's lawyers have even had a look in on this contract. The Attorney-General has been too busy, and I do not think they will let the Legislative Council QC near it. It would probably be in the interests of everyone in South Australia if they did let such an eminent legal practitioner as the Hon. Robert Lawson lend his expertise to this exercise. One can only wonder why a man with such legal qualifications and held in such high regard throughout the legal fraternity in South Australia has been deliberately excluded from even perusing the documents. I can only speculate as to the reasons for that.

Quite clearly, unless the Government is able to get some agreement from CGE and Thames Water, the six directors will be appointed by Thames and CGE. It is no good the Government trumpeting that we will have six Australian resident directors: these people will be appointed by United Water International Pty Ltd. Not only will Thames and CGE get two each, but they will have a 95 per cent shareholding and will be able to appoint the other six directors. So, all the directors of that company will be at the beck and call of Thames and CGE. I call upon the Government, particularly the Premier, to intervene in this matter (as he is the one who has been bragging about this) to ensure that, when this matter goes back to Cabinet (if it did not sign off on it last Monday), it is made quite clear that, of the six Australian directors, one should come from Kinhill as, after all, it is getting a handsome 5 per cent of the company. I guess that would entitle it to one twentieth of a director or at least half a director.

The Hon. T.G. Roberts: Do you think Mr Kinnaird will get a berth?

The Hon. T.G. CAMERON: I have been led to believe that he will be the Managing Director, but I guess that only time will tell. It is vital that the Premier intervene in this question of the appointment of the directors and ensure that they are independent directors, that is, directors who are not under the thumbs of Thames and CGE. If this company—and it is a big 'if', according to Alex Kennedy's article—ever achieves 60 per cent Australian ownership, the question of directors could be further examined.

The Hon. J.F. Stefani interjecting:

The Hon. T.G. CAMERON: The Hon. Mr Stefani interjects and says that if it is a public company that will automatically happen. It will not be a publicly listed company, Mr Stefani; haven't they told you that in your Caucus? Haven't they told you that it is not going to be a publicly listed company; it is a proprietary limited company. I have the Australian Securities Commission documents here, and 95 per cent of the company will be owned by Thames and CGE. They will get 95 per cent of the first company and 100 per cent of the second company. Unless the Government in its contract with United Water International Pty Ltd insists that these Australian resident directors are independent, they will be chosen by Thames and CGE. No doubt, as a result of my comments, some sort of a cosy arrangement will be entered into and directors' names will probably be put forward claiming that they will be independent.

In the time left to me, I would like to traverse some of the comments that have been made by both Mr Olsen and Mr Brown. Quite clearly, Mr Olsen has been grossly incompetent in his handling of this matter. It is probably time for him to stop polishing his leadership baton and put it in the bottom drawer, because I do not think he will ever be required to pull it out and use it now. My observations from the scuttlebutt that floats around the corridors of this place are that any aspirations by Mr Olsen to become Leader of the Liberal Party in this State following the confusion, the mess and the ineptitude that he has displayed on this matter, are finished—despite the perfidious way in which he was dumped by his colleagues after they talked him into resigning from the Senate and coming back here to take the top job.

However, time does not permit me to detail the perfidy of the individuals involved.

I wish to examine some of the statements made on the Keith Conlon program on 24 November. In response to questions put to him by Keith Conlon, Mr Olsen said:

> But let me say this: there is one component to this that from the Government's perspective is non-negotiable, and that is we will have a company that will have the opportunity. . .

That is an interesting choice of words, which I am sure would not pass by the astute Hon. Mr Lawson: 'We will have the opportunity' for investment. So, on the one hand, we have the Premier saying that this company will be Australian-owned from the outset, and then we have Mr Olsen saying that there will be the opportunity for investment from within Australia with 60 per cent equity and that six of the 10 directors will be residents of Australia.

Mr Olsen said that that was a non-negotiable position from his point of view. I am pleased that Mr Olsen has come out with that statement, because it would appear that he and his negotiating team have not been having talkies lately in relation to the negotiations that have been going on between that team and United Water International Pty Ltd. I might say on that point that I agree with Alex Kennedy's assessment of the executives from United Water International: they were frank and they are hard-nosed businessmen. In all the scuttlebutt floating around town, they have done the negotiating team like a dinner. I agree with the sentiments expressed by the shadow Minister for Infrastructure in the other place that this team should have been sacked. Of course, its members will not be sacked, because if they are sacked they might bell the cat on what the Minister really knew about the details of this contract.

It is interesting to note the comments made by the Premier, and later if I get time I will come to them. It is quite clear that he did not know and that he was upset that he was not told. In fact, the Premier was so upset that, on that Wednesday night—the night of the long knives, when they were up until all hours of the morning fighting about this matter—the Premier had quite a bit to say, although the Premier was not the only one who had a lot to say on that night. I read with much interest—

An honourable member: What are the minutes of the meeting?

The Hon. T.G. CAMERON: They didn't keep any minutes, but obviously a few of the attendees kept a few notes, because they were able to give the Hon. Mike Rann and me a very detailed briefing of what transpired. I notice that the Hon. Mr Lawson is having a bit of a chuckle to himself about this over there. I am sorry: it was the Hon. Mr Lucas. I apologise to the Hon. Mr Lawson: I would have been surprised if he had laughed at that.

I note with interest the *Sunday Mail* article about the 'Backstabber back bench Brown MP stirs plot'. I read the article and I also discussed the version of events that our Leader received in the House of Assembly. Interestingly enough, his version of events that was transmitted to me and the article in the *Sunday Mail* seemed to be pretty accurate, but they did not contain all the facts.

The Hon. R.I. Lucas interjecting:

The Hon. T.G. CAMERON: It is no good the Hon. Mr Lucas's squealing and complaining and jumping up and down in his seat about this. It is a fact of life.

Members interjecting:

The Hon. T.G. CAMERON: If it is not a fact of life, why was Joan Hall the first one on her feet at the meeting that was called together to dump Minister Olsen? Why was Joan Hall the first one on her feet? She had been asked to give a dorothy dixer; she led the attack and asked a pre-arranged question that was designed to stick the knife into Minister Olsen.

The Hon. L.H. DAVIS: I rise on a point of order, Sir: the honourable member may be arguing that leaks have to do with water, but that is the only relationship the comments would have to the Bill before us.

The PRESIDENT: Yesterday I mentioned that we were getting a bit far away from the Bill when we started talking about those things. I suggest that the honourable member should come back to the point that we are discussing on the Notice Paper.

The Hon. T.G. CAMERON: Thank you, Mr President. I guess about the only thing one can say about this contract is that it bears every similarity to Watergate. The cover-up, the deception and the deceit that are being put about by the members on the other side of the Council as they interject do lead one to question what the cover-up is. I am pleased to advise that the Leader of our Party in the other place has told me that the dorothy dix question that was asked at the factional meeting was not asked by Joan Hall. However, I note that the Hon. Mike Rann has a journalistic background and he may well be seeking to cover his source. Unfortunately for Joan Hall, her naked ambition got the better of her at this factional meeting—and I assure members that her naked ambition is not a pretty site.

The PRESIDENT: Order! I made the suggestion, and I think the honourable member has to link what he is talking about with the subject matter on the Notice Paper. Since I asked him to do that, I have not heard one semblance of anything that I asked and I suggest that he do so.

Members interjecting:

The Hon. T.G. CAMERON: On 24 November on the Keith Conlon show Mr Olsen said:

> Well, look, this is where we would like the goal post to now be shifted.

The interesting question that needs to be asked is: who is telling the truth? Is the Hon. Mr Olsen telling the truth, is the Premier telling the truth, or are they both lying and covering up? That is what we need to find out. We notice that the Premier made quite clear—unless he misled the House of Assembly—that the question of Australian ownership was a factor that would be taken into account in the awarding of the contract. If this was one of the stipulated conditions, why was it not communicated to people? If it was one of the stipulated conditions, why did one of the bidders, North West Water, put in a bid with a company that was going to be 100 per cent owned by overseas interests? That is a very interesting question that we can put to North West Water tomorrow. If it was so clear that there was to be Australian equity in any company that was to manage South Australian water—and we were told repeatedly by the Premier and the Hon. Mr Olsen that that was the case—how did North West Water, an enormous company with billions of dollars worth of assets and highly skilled in making bids of this kind, get it so wrong? Why did it put in a bid with a company that was 100 per cent owned? I guess at least it had the honesty to disclose its true intentions when it lodged its tender.

It is no good the Hon. Mr Olsen blaming United Water International Pty Ltd for trying to shift the goal posts as he tries to escape scrutiny for the misleading, confusing and bumbling way he has handled this contract. It is also interest-

ing to note that in that interview the Hon. Mr Olsen stated that he was at a function that night in response to being requested to attend a Wednesday night meeting. I understand he was dragged out of that meeting at 11.30 and taken to the Festival Hotel. I cannot talk about factional matters, so I will not do that.

All the statements that have been made indicate that there was either a terrible lack of communication between the key players in this matter or that details in relation to both the tender and the bids put in by United Water International Pty Ltd were misleading. Malcolm Kinnaird, who is the Chairman of the board, said that Australian institutions and mums and dads would have a chance to buy into it. He went on to say in that interview on 21 November that the contract between the Government and the consortium will be with one company, United Water International: it will be the only company that the Government will have a contract with. It later unfolded during that interview that that might not necessarily be the case, that the Government might have a contract with United Water International Pty Ltd, but it is such a hot potato that it will handball it straight on to United Water Services Pty Ltd.

He went on to state that United Water International would retain its responsibility for the operations. That is an interesting point, because United Water International Pty Ltd is basically only a bit of a front, a bit of a shelf company. It will have a bit more than the $2 capital it has now: it will have $3 million worth of capital. How can that company give the appropriate guarantees to SA Water in terms of all the warranties and guarantees that are necessary in order to ensure that, if any litigation or any action is taken against United Water International Pty Ltd or SA Water, there will be sufficient substance to stamp—

The Hon. J.F. Stefani interjecting:

The Hon. T.G. CAMERON: The Hon. Julian Stefani suggests that it will have to put forward a deposit or a bond.

The Hon. J.F. Stefani: That has been stated.

The Hon. T.G. CAMERON: What, a $30 million bond?

The Hon. J.F. Stefani: $10 million.

The Hon. T.G. CAMERON: I think that you will find it is a bit more than $10 million.

The Hon. J.F. Stefani interjecting:

The Hon. T.G. CAMERON: It is just that more confusing statements are being made. We will see who is closer. I reckon it might be closer to $30 million. We will see whether you are closer to the mark at $10 million. When we asked the Attorney-General, he was unable to tell this House that all—

The Hon. T. Crothers: He is a very honourable man.

The Hon. T.G. CAMERON: He is an honourable man and I believe that he told the truth that day. Whilst it took him a long time to get to the point, and if one can read between the lines, he clearly said that it was the Government's intention to ensure that all these guarantees are in place, but he could not give us an absolute guarantee that the absolute guarantees that the Government will get will stick. United Water International Pty Ltd probably will have gone through most of its $3 million by the time the first lot of litigation comes in, so how will it stand by the contract? It is not good enough for the Attorney-General to say that SA Water will stand behind all of it, anyway.

What if SA Water sues United Water International Pty Ltd or United Water Services Pty Ltd for failing to honour their contractual obligations? What if SA Water is sued by consumers, and it then ropes in United Water International Pty Ltd? How good will these guarantees be? Why is it not the case that there is only one company there? Why do we need United Water Services Pty Ltd at all? That is an interesting question, and it is one that I cannot quite get to the bottom of.

The Hon. T. Crothers: Will the cost of setting up that company increase the cost of water to consumers?

The Hon. T.G. CAMERON: No.

The Hon. T. Crothers: Well, it has to come from somewhere.

The Hon. T.G. CAMERON: They probably only spent about $1 200 setting up United Water International Pty Ltd. No, they had Thomson Simmons do it, so it was probably about $2 000. That probably would have been the total cost. I advise the Hon. Mr Crothers that the share capital at this stage is only $2.

The Hon. T. Crothers: So it's a shelf company.

The Hon. T.G. CAMERON: It is a shelf company and so far only $2 has been put in. I note that Mr Peter Doyle, who has claimed that he is a director of the company, is not a director in the documents registered with the ASC. It may be, however, that he has not lodged his notification yet, and that is in order, because you are allowed a reasonable time within which to do that.

The Hon. J.F. Stefani interjecting:

The Hon. T.G. CAMERON: Twenty-eight days; I appreciate the interjection from the Hon. Mr Stefani. No doubt that notification will be in shortly. But there are real question marks that were underlined by the answer that the Attorney-General gave to a question asked by the Hon. Mr Crothers the other day. You have to respect the Attorney-General's opinion, as he is the leading lawyer in the State, when he said that he could not give an absolute guarantee. I guess that is because the Attorney-General knows lawyers only too well, because at the moment the contract is signed there will be another bunch of lawyers going through it with a fine tooth comb to see whether they can find any legal loopholes to avoid their contractual and legal obligations under that contract. It would be a real tragedy if SA Water ended up with legal bills running into millions of dollars because these guarantees did not work. It would be even worse if South Australian water consumers took action against United Water International Pty Ltd only to find out that they could not sustain a claim. In relation to the share issue, Mr Kinnaird also went on to state on 21 November that it might be dependent on the demand for capital.

The Hon. J.F. Stefani: That's right

The Hon. T.G. CAMERON: It is pleasing to see that some of the members on the other side of this Council know a bit about what is going on.

An honourable member interjecting:

The Hon. T.G. CAMERON: Well, it is an interesting comment to make: 'Dependent on the demand for capital.' Does that mean that these people already realise that they cannot be held to their commitment to reduce their 95 per cent share holding to a 40 per cent share holding? Do they already know that they cannot be held to that commitment and that they will only sell the shares down when they need capital for further expansion or, as may well be the case, to prop up the company financially? If they are sending all the profits straight to United Water Services Pty Ltd they will need more capital fairly quickly. On 21 November, Mr Olsen must have received some information from one of his minders that he might have misled people on the Keith Conlon show. He was on there at 9.46 a.m. and quickly decided to go to the Matthew Abraham show. At 10.5 a.m.

an interview started and, interestingly enough, the story is a little bit different. Mr Olsen said that the contract will be with United Water International, which will be the company with which the Government, through SA Water corporation, will contract and it will be a majority Australian-owned company.

We have conflicting statements here made by Minister Olsen. On the one hand, he says, it will be a majority Australian owned company; 60 per cent equity will be Australian equity. I can refer members to a number of statements where the Minister says it will be majority Australian owned. I can also refer members to statements made by Mr Olsen that there will only be an opportunity for a 60 per cent Australian equity.

The Hon. T.G. Roberts: Was it a beat up?

The Hon. T.G. CAMERON: I have probably said enough about a beat up. I do not want to upset Mr Kinnaird any more than I have already. We have a document here put out by SA Water. This is part of a PR exercise:

> It is also important to know that United Water will be legally bound. United has committed to having 60 per cent Australian ownership within 12 months.

Then we have Mr Olsen saying there will be 60 per cent Australian ownership. Mr Olsen also says that they will only have the opportunity.

The Hon. T. Crothers: What date was that?

The Hon. T.G. CAMERON: He has made a number of statements. Further in that interview, he said:

> The company that we will contract and pay the fee for service will be a 60 per cent Australian equity company.

An honourable member: Is that the end?

The Hon. T.G. CAMERON: No, I have a bit more yet. I am running out of time, Mr President, so I will have to pick my way through some of this. I refer to some statements made by the Hon. Dean Brown in response to a quite penetrating question put to him by Mr Foley, as follows:

> Will the Premier say whether the Government's request for tender proposal documents required companies bidding for the water outsourcing contract to be 60 per cent Australian owned within 12 months of winning the contract?

The Premier replied:

> I think that the answer to that is 'No'. A more general provision asked them to maximise the Australian content and stated that the level of Australian content would be taken into consideration. It was not a specific requirement that there be 60 per cent Australian equity.

I guess the question that needs to be asked is: was that true? Was that part of the key requirements and conditions set down when these three companies tendered? If so, it was never mentioned by the Minister for Infrastructure in his media release on 11 October 1994; nor was it mentioned in his media release that he handed out I think on 2 May 1995. If that is true, why did North West Water spend millions of dollars preparing a bid that was bound to fail?

The Hon. R.R. Roberts interjecting:

The Hon. T.G. CAMERON: Well, we might hear tomorrow. I guess it might depend on how much pressure is placed on North West Water in relation to the BOOT contract: time will tell. Reference was made to the fact that a public relations company or research company, in which a Mr Courtland has an interest, has been doing research on this matter for SA Water. We have already been made aware in this Chamber that the Government has been using private companies to conduct research on projects that have been given to it, and the results of this research have been fed back into the Government.

We had evidence of that in this place only a short while ago in relation to education matters. Now we have an even more sinister approach by the Government: the Government is using its mates. I understand that Courtland did a lot of research for the New South Wales Liberal Party, and Courtland is associated with a former New South Wales Liberal Premier, Nick Greiner. Questions were asked of the Premier—

An honourable member interjecting:

The Hon. T.G. CAMERON: I understand that $40 000 to $50 000 was spent on research for SA Water and the information from that research was fed straight back to the Cabinet outsourcing committee. It must have been fed back into the Cabinet, because, when the Hon. Dean Brown was asked questions about it, he said that he would honour his oath, maintain Cabinet secrecy and not disclose to the House any information in any documents that were put before Cabinet. The Hon. Mr Lucas has a puzzled look on his face. Maybe he would like to confirm that.

The Hon. R.I. Lucas: Quote the reference. You promised. Promises, promises, Cameron.

The Hon. R.R. Roberts interjecting:

The Hon. T.G. CAMERON: I cannot recall having promised to quote it.

The Hon. R.I. Lucas: The challenge is before you.

The Hon. T.G. CAMERON: I can assure the honourable member that if I cannot find it now I will provide it to him. Ah! Here it is. If you will be patient, I will quote it for you. On 28 November, the Leader of the Opposition, Mike Rann, put another penetrating question to the Premier:

> Did the Government commission market research on community attitudes to the outsourcing of Adelaide's water system, and what did that polling reveal?

Obviously, the Government would not have commissioned the market research; it has this arm's length approach at the moment. The Government is saying, 'We will get SA Water or the Public Transport Board to do it.' Then, when we try to find out any information about it, even though the Minister for Transport said that she would provide me with the information, she has declined to give it to me because the Public Transport Board will not provide it to her. This is the way the set-up occurs. The polling research is done by a Government agency, which contracts out to a private research firm. Anyway, in response to this question, the Hon. Dean Brown said:

> As I understand it, the Government did not commission any market research on the water contract.

Well, we would have expected that. He went on to say:

> I understand that the company that undertook some of the promotional work did so of its own volition. . .

I am not sure whether he is trying to create the impression that the research company did it. Anyway, he then went on to say:

> That company provided some information, which was tabled before the Cabinet outsourcing subcommittee. I indicate to the House that the Government did not commission that work: it was apparently undertaken, of its own volition, by the promotional publicity company that worked closely with SA Water.

The Hon. R.I. Lucas: Where is this quote?

The Hon. T.G. CAMERON: All this polling information was sent back to the Cabinet outsourcing committee. Later, in response to further questions, the Hon. Dean Brown said:

> The Leader of the Opposition has asked the question, 'What did the polling show?': he has been a Minister and has sworn the same

oath that I have sworn, and he knows that I am prohibited from revealing the information in any document laid before Cabinet.

Clearly, the interpretation of that answer is that the Cabinet did get the information and he is using Cabinet confidentiality not to disclose it.

Members interjecting:

The PRESIDENT: Order! The Hon. Terry Cameron.

The Hon. T.G. CAMERON: Thank you, Mr President. It is difficult to concentrate when Government members are incessantly howling interjections at me. From time to time they have been successful in interrupting my train of thought. But their efforts are futile, because I have now found my place again. On 23 November 1995, Mr Foley directed a question to Dean Brown. I will not read it into *Hansard*, but it is reported at page 272. Once again, the Premier gave an unconvincing response. He fudged his answer, and he dodged the question. I note that the Hon. Legh Davis is shrieking from the back benches again about the State Bank. It would be useful if he got a recording made, because then all he would have to do is press a button and he could save his throat. I understand he has had a bit of laryngitis lately. Perhaps if he did not interject so much from the backbench his throat would not get so sore.

Yesterday I was warned in no uncertain terms by the Acting President about what I could and could not say in relation to the select committee. Whilst I thought the Acting President was a little rough on me, I respect his ruling. I point out to the Council that North West Water is to appear before the committee. I understand that Lyonnaise, the French water company, will also appear, and it is one of the other bidders. I also indicate to the Council that the committee will want to look at all documents and papers, including any internal memos that were sent between the bidders—

The Hon. L.H. DAVIS: I rise on a point of order, Mr President. I draw your attention to the fact that the honourable member is ignoring advice given to him yesterday by the Acting President (Hon. Trevor Crothers) and is talking about matters relevant to a select committee in total breach of Standing Orders.

The PRESIDENT: Order! There is a point of order. Is the honourable member listening?

The Hon. T.G. CAMERON: Yes, Mr President, I always listen when you speak.

The PRESIDENT: Order! The honourable member's reference to witnesses who attend before the select committee is out of order, and I ask him not to do that or refer to what witnesses before the committee may do.

The Hon. T.G. CAMERON: I stand chastened on that point. Perhaps I could say that it is my personal opinion that these people should attend, and it is my personal opinion that I would like to have a look at all the documents and papers. Perhaps I will not go as far as the Hon. Legh Davis, when he was on a select committee investigation into Scrimber, and charge down and burst into a company's offices demanding documents and sitting until all hours of the morning. I am only expressing a personal opinion, Mr President. I respect your ruling on the matter, and I will make no further reference to the select committee.

However, I would like to say more about this matter, to expose the obvious conflict that exists between the Premier and one of his senior Ministers—a leadership contender—in the name of Mr Olsen. It comes as no surprise to me that Mr Olsen failed to notify the Premier of the fact that two companies were involved.

They hardly speak to each other these days, such is the bitterness and division that exists within the Liberal Party—but that is enough on factionalism. I would like to mention a couple of the critical issues. For the life of me, I cannot understand why the Premier whimped on this issue and why he did not rebuke the Minister for Infrastructure. Quite clearly, his handling of this matter has been less than that which one would expect from a competent senior Minister, but certainly much less than one would expect from a leadership contender. As I said before, he can stop polishing his baton and put it away in the bottom cupboard because I do not think he will ever need it.

Quite clearly, the Minister has been incompetent; either he lied to the people of South Australia and misled them or he has been grossly incompetent. This contract is the largest contract ever entered into by a Government on behalf of the people of South Australia. It is a contract which will run for 15 years; it is a contract which involves in excess of $1.5 billion worth of public money; it is a contract which is promising to deliver $600-odd million worth of exports to South Australia; it is a contract which will be delivering, we are told, an additional $800 million to our Gross State Product over the next 10 years; it is a contract which—it is said—will create 1 100 additional jobs in South Australia. I think there is some truth and merit in what both Mr Phipps and the Minister have been saying in regard to opportunities that do exist in South-East Asia. As I understand it, some $300 billion worth of contracts will come up in that region over the next 10 years.

How could the Minister for Infrastructure have taken his eye off the ball in relation to this matter? How could he have not known of the two-company structure? How could he have not known about a head contract, a subcontract, a minority 5 per cent Australian ownership, etc? Something is seriously amiss. He has been so hopelessly inept in this matter that he should step aside from his portfolio in this area and hand it to over to the Premier. We are at the critical stage of the negotiations. One wonders what other bungles have been made. Quite clearly, the Minister for Infrastructure has failed miserably in his handling of this contract. He should be censured by the Premier. I think Joan Hall had it right all the way along. He should have been censured by the Premier and he should have been removed from this portfolio, and the Premier should have taken control of this contract.

In conclusion, there is one statement I would like on the record. It is a personal statement: whilst I condemn the French Government and President Chirac for the nuclear testing in the Pacific—and I do condemn it, as I think everybody in this Chamber would—my condemnation does not include the French people and nor does it include French companies which might be operating in Australia, or anywhere else for that matter, and that does include Lyonnaise and CGE. I do not support the imposition of bans or action or consumer boycotts etc that are taken against French companies. As far as I am concerned, whether a company is French, American, British, Russian or Chinese it will be treated equally by me.

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

[Sitting suspended from 6 p.m. to 7.45 p.m.]

STATUTES AMENDMENT (WORKERS REHABILITATION AND COMPENSATION) BILL

Adjourned debate on second reading (resumed on motion).

(Continued from 23 November. Page 705.)

The Hon. M.J. ELLIOTT: I rise to support the second reading of the Bill. The substance of the Bill as it stands has the unanimous support of this Chamber, although I am aware that there are some reservations about some aspects of it. When we passed a previous amending Bill in relation to workers' compensation it created some problems in relation to the retirement age of men versus women. That led to a case that went to court, which plainly showed that the previous legislation was not consistent with anti-discrimination legislation, and this need for change became apparent. In fact I recall that I flagged to the Minister late last year, when this issue was being considered, that I believed we had problems with this and that it would need a change. At the time the Minister acknowledged it, and why it was not rectified at the time I really do not know.

I am somewhat concerned that the Minister is now saying that this change is costing an extra couple of million dollars. The fact is that it is a change that had to happen, a change that is proper and correct and a change that was necessary. I understand that during the Committee stage an amendment will be moved by the Attorney-General and possibly one moved by the Hon. Ron Roberts. An issue has arisen in relation to workers over 65 who are injured. At present a person over the age of 65 who is injured is entitled to only his medical expenses and to no other form of compensation whatsoever.

I believe that that circumstance has existed for some time. There is plainly some inequity in this area. If a person is injured at work as a result of an employer's negligence, to suggest that they will have only their medical expenses reimbursed is plainly inequitable. Unfortunately, every time we seek to expand the net of workers' compensation to pick up people—people who rightfully can expect to be protected—the cry goes up, 'This will cost us more money.' As a consequence, pressure is applied by the Government and it says, 'This is starting to cost us too much; we want to cut back on benefits.' The expansion of benefits in one area can often create pressure on benefits in another.

That may not be fair but it is certainly reality. I support the principle contained within the amendment proposed by the Hon. Ron Roberts but, recognising some of the cost implications, I have told the Government that, at this stage, I am prepared to look at two compromises: first, that wage reimbursement be for six months rather than 12 months; and, secondly, that reimbursement applies only to employees and not to employers and self-employed people. As it happens, a little over half the people over the age of 65 who are working are self-employed, and I would argue that they are in a position to give themselves cover by way of personal insurance against wages in the case of an accident and so on.

After all, an employer bears most of the responsibility for their workplace, which is quite different to an employee. What I did not want to open up was this whole question of who is and who is not negligent. The concept of blame is something we have so far kept out of workers' compensation legislation, because once blame becomes an issue costs go through the roof and, unfortunately, that money goes into the pockets of lawyers and does not find its way to injured workers. In fact, what injured workers get actually decreases.

I have sought to recognise that a problem exists. The solution at this stage is not satisfactory, and I think that Ralph Clark and the Hon. Ron Roberts would say that their solution is not satisfactory but that it does move in the right direction. The amendment which the Minister will move and which I will support is certainly a significant improvement on the current situation. I understand that, in terms of employees, some 90 per cent of people aged over 65 years who are injured are back at work within 15 weeks. The vast majority of these people who are injured at work will receive full compensation.

With those words, I support the second reading and indicate that an amendment is coming. It will not amend an existing clause—it addresses an additional issue. This issue goes beyond those which were the original substance of the legislation before us. It is important and I am glad the issue is being addressed. It is one to which we will have to return again in the next couple of years.

The Hon. R.R. ROBERTS: I support the second reading of the Bill. This measure has had a long history and one with which I have been involved right the way through, since the major alterations to the WorkCover legislation were debated in this Parliament. It was recognised after that legislation was promulgated that there would be a problem with respect to the difference between working women over 60 years of age and working men over 60 years of age.

To recount for the record, the opposition of the Australian Labor Party to this amendment in the original Bill was strong. We did not believe that it was right in this day and age to discriminate against any worker on the basis of age, whether it be 60, 65, 70 or indeed 80 years. There was a long debate on that, and I will not recount all aspects of it. Suffice to say that it was not our preferred position to come back to the normal retirement age of 65 years, mentioned on that occasion and accepted by the House, until such time that it became clear that the interpretation by WorkCover would discriminate between men and women in that women who are 60 years of age and who are injured at work would be compulsorily denied access to weekly payments under the WorkCover scheme.

In recognition of that and the strong protest and argument put by the Hon. Anne Levy in respect of these matters, and after submissions from the United Trades and Labor Council and a number of injured women workers, we introduced a Workers Compensation and Rehabilitation (Age) Bill which passed this place and was sent off to the Lower House. Time did not allow the passage of that Bill in the other place and the Minister promised that before Parliament rose he would introduce legislation to overcome the problem. I am still not of the view that, in these more enlightened days in industrial relations where we recognise discrimination on the basis of age, this legislation discounts completely the aspect of discrimination in relation to these workers.

It needs to be pointed out that if a worker (male or female) determines that they want to continue to work beyond the age of 65, they are perfectly entitled to do so. If that worker does continue to work, the employer is required to pay the appropriate premium on a per worker basis. There is no discount for people beyond a pensionable age. We also need to remind ourselves that access to the pension has nothing to do with WorkCover. The social security regulations refer to when one may access a pension under Australian law, but they have nothing to do with the rights of workers or injured workers.

With all that in mind, we are still philosophically opposed to including any age limit in the rights of injured workers to access their weekly payments if they are injured whilst in employment. However, we argued that case long and strong and lost it on the numbers on another occasion, when Mr Elliott clearly indicated that, purely on the basis of economics and cost reduction, he would support a retirement age of 65 years.

During the past couple of weeks, other problems have been brought to the attention of the Opposition and the Government. For instance, there is a problem where an injured worker who decides to continue to work, generally for financial reasons, becomes injured, is compulsorily retired and is not able to access normal weekly payments. This often causes undue hardship, and we feel that that is harsh and unjust. My colleague in another place, Ralph Clark, has suggested that any worker who is injured at work ought to have at least 12 months' entitlement to weekly payments to allow him to get his affairs in order. There has been intense discussion between the Hon. Mr Elliott, the Attorney-General, the Hon. Mr Ingerson and my colleague Ralph Clark. What appears to have developed from that is an amendment which shows that the Government and the Democrats have agreed to come half way towards what is indeed only a halfway house for us, anyhow, with 12 months and six months of benefits after reaching the retirement age.

There is another component which provides that this will cut out completely when the worker reaches the age of 70. Quite clearly, that will mean that if an injured worker is aged 69 years and six months he will be entitled to only six months of benefits. The purists will argue—and rightly so—that this is also discriminatory. However, in politics we must face the reality of the situation, and that is that that will be the mandatory cut-off date. If an injured worker or their legal representative wants to challenge that in the courts of the land, that is their right.

I again argue as a layman that they would have a fair chance of convincing the authorities that they are being discriminated against on the basis of age. In the light of the reality of the numbers, if not for any other reason, we will not call for a division when this amendment is moved in Committee. I commend our amendment to the Committee because I think that 12 months is a reasonable time for an injured worker, who compulsorily and unwittingly will have to retire, to get his affairs into order so that he can adjust to a new lifestyle. I will move my amendment, but I will not call for a division when this matter comes before the Committee.

The Hon. R.D. LAWSON: I, too, support this measure. I do not propose to speak on any of the detailed provisions. There is much to lament about the legislation that governs the system of workers' compensation in this State. As a result of many amendments, the Act is now full of excessive technicality and legalisms.

It bristles with points for the point taker; often the purpose of the legislation is buried beneath complexities, and complexity has been heaped upon complexity. As the Hon. Trevor Crothers would say, Ossa has been heaped upon Pelion. I know him to be a great scholar of Virgil.

The amendments before the Council will not solve the underlying difficulty with this legislation. There was a time in this State—about 15 years ago—when it was quite uncommon for litigation to go to the Supreme Court on the meaning of the successive workers' compensation legislation. However, in recent years—probably in the past five or six years—there have been a large number of cases in which different legal points have arisen for determination.

A number of judges in recent times have criticised the complexity of the legislation and criticised the difficulties which it has created for all concerned. After all, this legislation should be simple and effective, because it meets an important social goal. This is not the occasion to revise the legislation entirely, but I do look forward to the time—in the near future, one hopes—when there will be a complete review of this legislation in order to simplify it and to make sure that it does achieve the intention of Parliament as reached in the parliamentary processes. At the moment, the intention of Parliament is frequently buried within the language and is often defeated by technical constructions being imposed on it by the court.

In conclusion, I support this measure and look forward to the time in the near future when the Government will bring forward an overriding review of this Act.

The Hon. K.T. GRIFFIN (Attorney-General): I thank members for their indication of support for the second reading of this Bill. I know there are some different points of view about the way in which the issue ought to be finalised, but that will undoubtedly be resolved in the Committee stage of the Bill. I look forward to a speedy passage of this important piece of legislation.

Bill read a second time.

In Committee.

Clauses 1 to 3 passed.

Clause 4—'Weekly payments.'

The Hon. R.R. ROBERTS: I move:

Page 2, after line 10, Insert—

(5A) However, if a worker who is within 12 months of retirement age or above retirement age, becomes incapacitated for work while still in employment, weekly payments are payable for a period of incapacity falling within 12 months after the commencement of the incapacity.

This amendment was constructed by my colleague in another place, and I touched upon most of the reasons for it in my second reading contribution. I reiterate that I believe that 12 months is a more acceptable time for a person who suffers an injury and who may well have intended to work for another two or three years. I think it takes 12 months to adjust one's affairs and to overcome at least the initial problems of the injury. I therefore think that 12 months is a reasonable time. I note that the Attorney's amendment will provide for six months and, although I do not believe that I will persuade this Committee that 12 months is a more acceptable time, I have decided to proceed with my amendment.

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

Page 2, after line 10—Insert—

'(5A) However, if a worker who is within six months of retirement age or above retirement age, becomes incapacitated for work while still in employment, weekly payments are, subject to the following exceptions, payable for a period of incapacity falling within six months after the commencement of the incapacity.

Exceptions—

(a) weekly payments are not payable under this subsection for a period of incapacity falling after the worker reaches 70 years of age;

(b) weekly payments are not payable under this subsection to—

(i) a worker who is, at the commencement of the incapacity, employed by a body corporate of which the worker is a director; or

(ii) a worker who is not, at common law, an employee of the employer unless the Crown is the worker's presumptive employer under section 103A.'

I oppose the amendment moved by the Hon. Ron Roberts and obviously prefer the amendment standing in my name. The amendment does concern the circumstances under which weekly payments could continue beyond the age of 65 years. I would suggest that the Government's amendment is a responsible approach to the issue. It is a sensible compromise between providing some access to weekly payments for persons beyond 65 years whilst, at the same time, not significantly disturbing the policy balance which was agreed last April or resulting in excessive costs to the WorkCover scheme.

My amendment would continue weekly payments beyond 65 years of age for a period of six months from the date of incapacity. The Hon. Ron Roberts has proposed 12 months. There are two qualifications to the Government proposal: first, that payments would not continue beyond the age of 70 years—and that is a principle of the WorkCover scheme between 1986 to 1993—and, secondly, that payments would not be made to working directors or self-employed contractors. These two categories can reasonably be expected to carry their own accident insurance. Persons covered under section 103A of the Act, who are volunteers, would, however, remain eligible for weekly payments.

The Hon. T. CROTHERS: I understand where both the Attorney and my own Party are coming from in respect of the amendment and that they differ only in quantum of time settings. Let me paint a backdrop of someone who has married late in life, or (perhaps this is not unusual in our society today) for a second time. Perhaps the spouse of the marriage, the female of marriage, is still a nubile woman, still of child-bearing age, and they have a couple of children. Consequently, the husband or the wife, whoever, is compelled to work in order to pay for the upkeep of their children. Under this proposition, the services of WorkCover are not open to them. So, to some extent, there is a set of circumstances, which, whilst not common are not unusual, and so the cost of looking after that injured worker's family is picked up in the general tax revenues of either the State or the Commonwealth. So, there is no escaping the fact that the State will look after those people but, it seems to me, it is something that ought to be looked at.

I understand that there would be potential for such a worker to insure himself or herself perhaps in a private insurance capacity. Is it possible for a worker under that set of circumstances that I have described to cover himself or herself with a private insurance company other than WorkCover in respect of any work related injury that might occur to the worker?

The Hon. K.T. GRIFFIN: That is a difficult issue because there are always conditions under a statutory scheme, and this statutory scheme repealed the entitlement to common law damages and the recovery of loss of earnings. If somebody is still working at the age of 70 and is injured, under the old system before the no-fault system was put in place, they may well have been able to claim loss of profits and even damages for the injuries sustained, although—

The Hon. T. Crothers: At common law.

The Hon. K.T. GRIFFIN: Yes, at common law, although at that age they might not have had a big claim because of the capacity to work, the prospects of surviving, and so on.

The Hon. T. Crothers interjecting:

The Hon. K.T. GRIFFIN: Actuarially. That would have been a possibility. The only way they could now be covered—and there may be some qualification to it—is by the employer or the employee taking out personal accident insurance cover. In those circumstances, there would be adequate coverage, otherwise it would fall to the social security system to maintain. In that way the whole community bears the cost as it does now in relation to those who move on to an age pension.

The Hon. R.R. Roberts: This makes it involuntary retirement. There is a difference.

The Hon. K.T. GRIFFIN: That may be. I am not disagreeing with any of the principles to which members are referring. I am just relating what the facts are and what the legal situation is. That is one of the difficulties that one faces where you have a statutory, so-called no fault scheme and one sets parameters within which it operates.

The Hon. T. Crothers: And you abolish common law.

The Hon. K.T. GRIFFIN: Yes, I agree, and that is an issue. The only way one can deal with this is by taking out one's own insurance or being reliant upon social security.

The Hon. T. CROTHERS: Will the Attorney-General check out whether that sort of private insurance is available to be taken up? I will be happy if the honourable member gives me the answer in private, as long as he gives me a guarantee that he will do that. I am not unhappy with what the Attorney-General is doing.

The Hon. K.T. GRIFFIN: It seems that those on the other side are always looking for guarantees. The Hon. Mr Crothers has just asked me to give him a guarantee. I give him an assurance that I will have some inquiries made in respect of the issues that he has raised and I will arrange for him to be informed by writing what the answers are.

The Hon. R.R. Roberts' amendment negatived; the Hon. K.T. Griffin's amendment carried; clause as amended passed.

Remaining clauses (5 to 10) and title passed.

Bill read a third time and passed.

CRIMINAL LAW CONSOLIDATION (APPEALS) AMENDMENT BILL

The Hon. K.T. GRIFFIN (Attorney-General): I have to report that the managers for the two Houses conferred together at the conference, but no agreement was reached.

SOUTH AUSTRALIAN HOUSING TRUST BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 701.)

The Hon. DIANA LAIDLAW (Minister for Transport): I thank members for their contributions. There are many amendments for the Committee to address and I suggest we move promptly to the Committee stage of the Bill.

Bill read a second time.

In Committee.

Clauses 1 to 4 passed.

Clause 5—'Functions of SAHT.'

The Hon. SANDRA KANCK: I move:

Page 3, after line 24—Insert—

(2) SAHT will be the principal property and tenancy manager of public housing in the State.

(3) SAHT must—

(a) provide affordable, secure and appropriate public housing that meets the needs of its clients; and

(b) ensure that rental housing provided by SAHT is well located, of adequate size and condition, and meets reasonable standards of health, safety and security; and

(c) ensure that public housing built by or for SAHT after the commencement of this Act incorporates modern standards of energy efficiency; and
(d) aim to provide public housing that provides reasonable access to community services.

In my second reading contribution I indicated that I thought that the Bill in its present state lacked vision for the Housing Trust and that I would attempt to ensure that some of that vision was included. These amendments are part of this process. The clause describes the functions of the South Australian Housing Trust. New subclause (2) provides:

SAHT will be the principal property and tenancy manager in public housing in the State.

I have basically picked those words out from the Liberal Party's policy at the last election and included them here. The words in subclause (3) have come out of a document that was circulated to stakeholders in the housing lobby, I suppose it could be called, throughout Australia. There was a covering letter and draft guidelines for State codes of practice in relation to consumer rights and responsibilities under a new Commonwealth-State housing agreement dated October 1995. Again, I have taken items out of those draft guidelines, which show the way that the States and Federal Government are going on these issues. I thought it important that these points should be incorporated in the Bill as part of the functions of the Housing Trust. Some of these points are worth considering. Paragraph (a) reads:

provide affordable, secure and appropriate public housing that meets the needs of its clients;

For instance, that might be housing for people of different ethnic origins and for Aboriginal people. Paragraph (b) reads:

ensure that rental housing provided by SAHT is well located, of adequate size and condition, and meets reasonable standards of health, safety and security;

I do not think it is too much to ask that we have built into our legislation a provision ensuring that tenants of the Housing Trust should have homes that meet those requirements. Paragraph (c) reads:

ensure that public housing built by or for SAHT. . . incorporates modern standards of energy efficiency;

Again, that is fairly obvious and something about which I feel quite passionately. I cannot see why any housing today should be built without insulation or proper siting, or why it should not have energy efficient lamps. Those are basic things. I think there should be a requirement under the functions of the Housing Trust that this will occur. Paragraph (d) reads:

aim to provide public housing that provides reasonable access to community services.

I do not want to see housing, for instance, at Seaford where there is no employment for people. Through the Housing Trust we need to ensure that people are located where there is employment. We do not want houses 20 or 30 kilometres from the major employment centres.

The Hon. DIANA LAIDLAW: The Government opposes the amendment. We believe proposed subclause (2) is made totally redundant by the functions already listed in the Bill. We note that proposed subclause (3) has been copied, in part, from a draft Commonwealth-State Housing Agreement paper that is circulating at present. The Commonwealth-State Housing Agreement is under review, and I understand it will be finalised at a Minister's conference within about a year. It certainly is a draft that is alive. Ministers of all persuasions across Australia are agitating for change to that draft, and it would be most inappropriate in the circumstances to take part of that draft, which is alive and which is subject to debate and amendment, and incorporate it in this Bill. I should point out, too, that some Ministers—whether they be Liberal, Labor, Federal or State—(and it is State Governments that have responsibility for the provision of Housing Trust accommodation) have expressed concern about one part of the draft agreement, and that part is incorporated in the Democrats' amendments. It reads:

(b) ensure that rental housing provided by the South Australian Housing Trust is well located, of adequate size and condition, and meets reasonable standards of health, safety and security.

If one were starting from scratch, one would not object to those provisions in principle. But we are not starting from scratch; the Housing Trust has been going for some 40 years, and there are 63 000 dwellings. It is pretty hard for any Government, no matter how conscientious—as this Government is—to provide in a Bill that the South Australian Housing Trust must ensure that rental housing provided by the South Australian Housing Trust meets those requirements. It is particularly difficult, when the Federal Government is being as mean as hell with funds, as it is at present, to help the State meet the demands for subsidised rental accommodation.

Just to meet current demands is a hard enough task. To ensure that all such accommodation meets the conditions, without qualification, as the honourable member has outlined in her amendments, is a task that may be fine in an ideal world but, unfortunately, we do not live in such a world. The question I know other State Ministers are asking is whether we would be legally bound to dispose of the houses, residential accommodation, flats and the like, that do not meet the criteria in the draft Commonwealth-State Housing Agreement the honourable member is seeking to incorporate, in part, in her amendments. I understand the sentiment, but we vigorously oppose the amendments.

The Hon. T.G. ROBERTS: The Opposition will support the amendments. I understand the frustration the Minister has enunciated—that the provisions may be too prescriptive. What the Democrat and Opposition amendments—and I guess the Bill itself—try to do is recognise that changed relationship between the State and the Commonwealth and still provide a safety net for those people at the lower end of the economic spectrum who rely on the Housing Trust, have relied on the Housing Trust—as the Minister puts it—for years, and are quite afraid of the rapid change that has started to take place with public housing.

I am not blaming the Government for that. Some of those changes emanated under the previous Government, but many people do not understand the intention of the changes that have occurred under the parent Act, the Development Act, that led to the development of the South Australian Housing Trust Bill 1995. The Government must recognise that there are people who need a security blanket that gives them some faith that in their ageing years—as many of the trust tenants are—and for social security recipients, there will security of tenure. The State does take responsibility for building housing stock of a wide variety. There is a component of social justice and equity built into the housing system and this Bill recognises that. The amendments improve that provision and actually are prescriptive in definition. We ought not be resiling from that fact when we negotiate with the Commonwealth; we must be prepared to stand up and take responsibility for those people who need to live in subsidised housing.

As far as the private rental market is concerned, there has been an argument among factions within Parties about the role of cross-subsidisation between private sector market rents and public sector accommodation. There is a requirement for both, but there is no point in dismantling public sector cross-subsidisation for people in difficult circumstances for the benefit of people trying to secure a private rental market. There is a role and responsibility for securing subsidisation for both. As all members would acknowledge, there is a problem with youth housing and there is a problem with the mobile poor, those people who move around and work at the lower end of the wage and salary spectrum and who need Government provisions for housing.

I think the amendment is prescriptive, but I cannot see anybody taking the Government to court if the provisions that they seek in relation to public housing are not met—unless there is a major public outrage against the Commonwealth's and State's provisional programs. That does not appear to be happening. There is a negotiated balance occurring at the moment and there is respect for the Commonwealth's problems and the State's needs. South Australia has a problem in that, historically, we have a large component of public housing. That is not something to be denied or to be ashamed of: I think it is something of which to be proud, but we need to change the balance. I think the Bill gives people the security for that, but the amendments strengthen the philosophical position behind it.

The Hon. SANDRA KANCK: I want to respond to some of the things that were said by the Minister. Some Bills have objects of the Act. This Bill does not, but it has a clause that approximates it and, that is, the functions of the South Australian Housing Trust. It is the place where people will look in this Act to find out what the South Australian Housing Trust is on about, about why it is there. This is the place where we make the statements about what this Parliament wants the South Australian Housing Trust to be doing.

As the Hon. Terry Roberts also stated, I do not think that it will result in legal action, but it means that, once it is on the public record, we and other people in the public will be able to say to this Government, 'Here are the functions of the South Australian Housing Trust as spelt out in the Act and you're not meeting them. Why are you not meeting them?' That is the purpose of inserting this in the Bill at this point. I thank the Opposition for its support on this.

The Hon. DIANA LAIDLAW: Will the honourable member accept an amendment to proposed subclause (3) to read that the South Australian Housing Trust 'should', rather than 'must', do all these things, because then we would find it much more comfortable in light of the general statement that the honourable member believes that it is fitting for the functions of the South Australian Housing Trust in this section?

The Hon. SANDRA KANCK: I just wonder what purpose that would achieve in terms of what the Housing Trust will actually do.

The Hon. DIANA LAIDLAW: The honourable member said that in general terms, as I understood her earlier statement, this is not an 'objects' or 'principles' (and there are different legal understandings in terms of those headings); that this is the 'functions' and it is an all embracing but not prescriptive outline of activities that would be undertaken by the South Australian Housing Trust. Therefore, the honourable member is making it prescriptive by saying that the Housing Trust 'must' do these things. We are indicating that, in terms of its functions, it 'should' do them, and we believe that that is more appropriate terminology for a clause that deals with the functions of the trust. My reference to 'prescriptive' really means that the word 'must' as proposed by the Australian Democrats leaves the trust open to legal challenge in terms of the areas of activity. The word 'should' would place some onus on the trust to consider these matters but would not leave it open to that legal challenge.

The Hon. SANDRA KANCK: I must say that I have a side to me that says let us keep the 'must' in there and, if the South Australian Housing Trust does not meet its obligations, then it would have to face that legal challenge, except that I do not expect that most groups that would like to do that would have the money to do it, anyhow. In the light of the advice that I have had, I will accept 'should'.

The Hon. DIANA LAIDLAW: I thank the honourable member. I move to amend the amendment as follows:

In proposed subsection (3) replace the words 'SAHT must' with 'SAIT should'.

Amendment amended; amendment as amended carried; clause as amended passed.

Clause 6 passed.

Clause 7—'Classes of licences.'

The Hon. SANDRA KANCK: I move:

Page 4, after line 4—Insert—

(ea) build, alter, enlarge, repair and improve houses or enter into contracts under which houses will be built, altered, enlarged, repaired or improved on behalf of SAHT;

(eb) convert buildings into houses;.

The proposed new paragraphs come from the existing Housing Trust Act. The amendment places no obligation on the trust because it provides that the South Australian Housing Trust 'may' build, alter, enlarge, etc. Given that the provision is in the existing Act, I thought it appropriate to ensure it be part of the new Act because it is a gentle reminder to the Housing Trust that it has the power to do these things; that it does not have to hand over everything to the public sector, as this Government is prone to do. I like proposed new paragraph (eb), which provides for buildings to be converted into houses.

Obviously, most people who know the Housing Trust would be aware, for instance, of its conversion of the old John Martin's warehouse in Rundle Street, Kent Town into Housing Trust units. It was a particularly good use of an old building whilst retaining the historic character of the area. It is the sort of project the Housing Trust has been able to do well in the past, and it is worthwhile including the provision in the Bill as encouragement to the Housing Trust to continue working on this type of development.

The Hon. DIANA LAIDLAW: The Government opposes the amendment. I acknowledge that similar powers are provided under the Housing Improvement Act 1940. That Act is not being amended and remains operative, in terms of various obligations upon the Housing Trust. We are redirecting the focus of the Housing Trust Act, and that is why we have introduced a completely new Bill rather than simply amending, in piecemeal fashion, the current Act. We are changing the focus of the Housing Trust by moving it away from its role as a development agency. The trust will be responsible for the leasing and letting of housing and to undertake general management and control rather than operate as a development agency.

The Hon. T.G. ROBERTS: My copy of the amendment does not include the word 'may', but we support the Democrat amendment. I understand the point the Minister makes

in relation to being prescriptive. I also understand the narrowing role and responsibility of the parent legislation. We are trying to set some principles that will give advice to those people who, in the future, will be looking at public housing. We want a policy that will perhaps encourage people to comply with the Act. I see the amendment not as broadening the administrative or development focus of the trust but as a statement and objective in relation to the setting of standards.

If there is to be a narrowing of the focus, and the role in this State is for the main body to be an administrative body to outsource and contract out its responsibilities, this Bill and some of the amendments set out the responsibilities that some of the outsourcing bodies will be able to refer to in order to maintain the standards that already exist. That is something that the Minister is perhaps resisting in her opposition to some of the amendments. If the philosophical position were embraced, there would be far more trust in relation to the trust and how people viewed the new role of the development body it is about to pick up.

The amendment attempts to achieve a built-in development consciousness and, by the development of the legislation itself, give some hope and faith to those people that the good work that the trust has done over the past 50 years is maintained and not wiped away with one legislative stroke. It would be a good public relations exercise for the Government to pick up the intentions of the amendment and, rather than try to restrict the focus of the intentions, to perhaps build them up, because I believe they will be a saleable product in the marketplace, particularly among Housing Trust tenants.

Amendment carried.

The Hon. SANDRA KANCK: I move:

Page 4, after line 11—Insert:

(2) SAHT must not sell an interest in residential property built or acquired by SAHT within the previous three years unless the Minister has, by notice in *Gazette*, declared that the Minister is satisfied that special circumstances exist in justifying the sale.

(3) If SAHT sells an interest in residential property—

(a) the sale price must at least be an amount consistent with the market value of the property; and

(b) the net proceeds of sale must be applied—

(i) towards the costs of providing new housing accommodation in areas of high demand identified by SAHT; or

(ii) towards retiring debt associated with the provision of public housing.

Proposed new subclause (2) provides that the South Australian Housing Trust must not sell an interest in residential property built or acquired, and so on, within the previous three years. I understand that that has been the internal policy of the Housing Trust. It allows the Minister leeway because the Minister can, by giving notice in the *Gazette*, declare that there are special circumstances. As a general principle, it means that, if a house was built or purchased, it could not be disposed of within three years. However, there is leeway for the Government to be able to do so in special circumstances.

Proposed new subclause (3), which I have taken from Commonwealth-State housing documents, ensures that if property is sold it is sold at effectively market value and the proceeds of the sale go towards providing new housing accommodation, in other words, to maintain the existing housing stock or to retire debt that has been associated with the provision of public housing. There is a lot of concern in the community that this Bill could lead to the down-grading of housing stock in South Australia by one means or another. The amendment will provide greater capacity to maintain the quality and quantity of the housing stock in South Australia.

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

Page 4, after line 11—Insert new subclause as follows:

(2) If SAHT sells an interest in residential property, the net proceeds of sale received by SAHT must be applied towards a purpose or purposes associated with the provision of housing within the State.

My amendment is not as broad ranging as that moved by the Democrats. Our amendment provides that if the trust sells an interest in a residential property the net proceeds of the sale received by the trust must be applied to a purpose or purposes associated with the provision of housing within the State. So, it is not prescriptive about the restrictions that can be applied to the trust in relation to what it can or cannot do. It does not actually advocate a speculative role for the trust, but it certainly does not restrict the trust from being flexible about buying and selling stock in those areas where there may be a flexible need or requirement from time to time. I think that is less restrictive for the trust and, if it is less restrictive and less prescriptive, it allows the trust to be a little more entrepreneurial in being able to maintain stock in good condition in those areas where it needs to be buying, selling and maintaining.

The Hon. DIANA LAIDLAW: The Government supports the Opposition's amendment. I was rather amused to see that the Opposition's first comment on the Democrats' amendment was that it was too broad ranging, as my criticism is that it is too restrictive: that it confines to too great an extent the way in which proceeds from property sales could be expended. For instance, it excludes refurbishment of existing stock, the provision of housing in areas of low or specific demand and the repayment of debt other than public debt. It seems that, whichever way we look at it—whether it is considered too broad or too narrow—neither the Opposition nor the Government likes the Democrats' amendment.

Hon. Sandra Kanck's amendment negatived; Hon. T.G. Roberts's amendment carried; clause as amended passed.

Clauses 8 to 11 passed.

Clause 12—'Building work must be supervised by registered and approved supervisors.'

The Hon. SANDRA KANCK: I move:

Page 5, after line 20—Insert:

(ab) must refrain from taking part in the deliberations or a decision of the board on the matter; and

This amendment, which is taken directly from the current Housing Trust Act, relates to disclosure of interest. I think this amendment strengthens those provisions. It should not be possible for someone who has a conflict of interest to take part in the deliberations, and I find it surprising that this Bill does not contain a provision that takes that into account. I think it is a natural course of events when someone has a conflict of interest in any organisation.

The Hon. DIANA LAIDLAW: The Government opposes the amendment. I point out that the provisions that the Government has inserted in the Bill are identical, word for word, with the disclosure of interest provisions that this place already passed in two earlier Bills: the Housing and Urban Development (Administrative Arrangements) Bill and the Community Housing Amendment Bill, both of which have been enacted. The latter Bill passed the Council during this session without amendment in either place. So, I would be most surprised if the Opposition supported the amendment moved by the Australian Democrats. It would also introduce unnecessary operational difficulties within the housing portfolio if these disclosure of interest provisions were

adopted when other boards in other Bills will operate under the provisions outlined by the Government in this Bill.

The Hon. T.G. Roberts: Can the Minister give us an example?

The Hon. DIANA LAIDLAW: Of what?

The Hon. T.G. Roberts: Of how it will be a disadvantage.

The Hon. DIANA LAIDLAW: It means that, in an operational and administrative sense, the housing portfolio is having to keep track of differences in disclosure of interest provisions in various Acts. Within the past two years, when upgrading and updating Acts within the housing portfolio—and I named specifically the Housing and Urban Development (Administrative Arrangements) Bill and the Community Housing Amendment Bill, both of which have now been enacted—neither the Labor Party nor the Australian Democrats moved amendments to those Bills. But now, with the third in this series of Bills relating to the housing portfolio, when we are trying to seek some administrative consistency between the Bills, it would be rather surprising, particularly in the same session of Parliament, if the Labor Party took an interest in amendments which were contrary to the stance it took on the Community Housing Amendment Bill only a couple of weeks ago.

The Hon. SANDRA KANCK: I must admit that in that case I have been caught out and that, in the pressure of legislation under the housing and urban development and community housing Bills, something slipped by me. Perhaps if I had had the luxury of assistants and so on to help me track all these things down it might not have slipped by. In this case it has not slipped by. It is very important. I remember that in the early days this Government was saying that, with the boards which it would be creating or altering or to which it would make appointments, it would be putting people on with more business acumen. That to me gives reason enough for concern: people on this board are more likely to have a conflict of interest than would have occurred in the past. I cannot see any administrative difficulties in this; all it requires is that the board member simply refrain from taking further part in the deliberations. It puts no strain on the Government whatsoever.

The Hon. DIANA LAIDLAW: I am advised that this was an original provision in 1936. For some good reason the Act is being upgraded at this time to provide standards that are consistent between the two Acts that have been before this Parliament in recent years and the Community Housing Amendment Bill just in recent weeks and also because it is the usual standard in disclosure of interest matters in other legislation of this nature.

The Hon. T.G. ROBERTS: I would separate business acumen from business vested interest, but in supporting nostalgia—

The Hon. Diana Laidlaw: It sounds like the left wing of the Labor Party back in 1936.

The Hon. T.G. ROBERTS: I must say that I have never belonged to the Stalinist branch of the 1936 division of the left. I am convinced by the passion of the Democrats' argument on this one.

Amendment carried; clause as amended passed.

Clauses 13 to 15 passed.

Clause 16—'Entitlement to be registered.'

The Hon. SANDRA KANCK: I move:

Page 7, after line 31—Insert new word and paragraph as follows:

and

(c) achieving appropriate social justice objectives and the fulfilment of SAHT's community service obligations.

Again, this is doing what I promised to do in the second reading debate. I expressed concern that the Bill did not cover social justice and community service obligations. I promised to include them, therefore I do that at this point as part of the general management duties of the board.

The Hon. T.G. ROBERTS: The Opposition will support the amendment. Regarding the nervousness of the Minister in relation to what kind of Bill she will end up with at the end of the day in relation to the amendments, I would certainly like to be going to the Commonwealth Minister with a prescriptive model as this is and saying, 'I am here to test your social justice *bona fides* by the in-built mechanisms that have been included in the restrictive Bill that we have so that we receive a greater share of Commonwealth funds in relation to their own principles.' It will be a negotiating stick that the Government will be able to carry rather than weakening the position.

The Hon. DIANA LAIDLAW: I remember that when Menzies set up the Liberal Party in 1944 he talked about social justice and gave quite a strong definition of social justice principles, and they have guided the Liberal Party well since that date. This, however, has no such reference to what is meant by social justice objectives. It is indistinct and relates more, I would argue, to the functions of the South Australian Housing Trust under clause 5 rather than the general management duties of the board. I realise, however, that I do not have the numbers in terms of opposing this provision.

Amendment carried.

The Hon. SANDRA KANCK: I move:

Page 8, lines 9 and 10—Leave out 'and reflect best current commercial practices' and insert ', to reflect best current commercial practices and to meet the housing needs of low and moderate income earners'.

I was concerned by the wording of this subclause when I first saw it and again it registered on my fear meter. As it is currently worded it does reflect the great concern that this Government has with commercial practices. It does not seem to have anything else in mind other than the economic side of things, yet, for many people, one of the important roles that the Housing Trust has played over the past 60 years is covered precisely by the words that I am inserting at the end of the amendment, that is, 'meeting the housing needs of low and moderate income earners'. It is something that has to appear in this Bill to ensure that we have a Housing Trust that meets its community service obligations.

The Hon. DIANA LAIDLAW: It is very hard for any organisation to meet its community service obligation, or for the Government as a whole, without ensuring from a whole of Government perspective and from every agency's perspective that they apply best current commercial practice to the management. In this clause we are talking about the general management duties of the board regarding the management of Housing Trust infrastructure—the assets. If the trust does not manage that property according to best current commercial practices, it will have difficulty meeting its social obligations, and those obligations are well listed in the functions clause of the Bill, and they have been amended tonight. With all due respect, the honourable member is getting rather confused about management duties and functions. If you do not manage your assets properly, you are hardly in business to fulfil your functions.

The Hon. T.G. ROBERTS: I know that it is late and that we are only three-quarters of the way through the Bill, but I think that we should mix our responsibilities. There is a responsibility on the Government to provide housing stock that meets the needs and requirements of its population, and there is a responsibility that that is done in the best financial and economic way, using the best current commercial practices. However, the overriding fact is that that can be done as well as maintaining the standard and numbers of the stock, and the variation of the stock, that is required for the Housing Trust to meet its responsibilities. One does not necessarily negate the other. I am confident that, over a long time, the bureaucrats within the Housing Trust have been able to do that.

If wasteful commercial practices have developed within the Housing Trust and they do not contribute to the best interests of the trust, it is up to the Government to set the standards and the criteria that bring about the best commercial returns and the best commercial management practices for the trust. If there are restrictions or bad practices, that is a management problem rather than a prescriptive legislative problem. It is the responsibility of the Minister, the Minister's officers and the CEOs to make sure that the State's investment is protected and that the returns and the capital input back into the stock maximise the State's ability to be able to build new stock and to maintain the existing stock. I would have thought that it is a responsibility on all Ministers to make sure that those duties are carried out on a day-to-day basis.

I do not see any provision in the amendment that does not relate to the State's responsibility to manage the trust in an efficient way, and I do not see that this clause is restrictive. If there is a restrictive practice within the management of the trust, it is up to the Government to try to overcome it. If the Government needs the Opposition's and/or the Democrats' support to increase the efficiencies of the trust to maintain and improve the stock, I am sure that the Hon. Sandra Kanck and I will be available to try to bring about outcomes that suit the Government's requirements.

Progress reported; Committee to sit again.

EDS CONTRACT

Adjourned debate on motion of the Hon. M.J. Elliott:

1. That a Select Committee be appointed to examine and report on contracting out of State Government Information Technology, and in particular, to examine the contract between the State Government and EDS;

2. That Standing Order No. 389 be suspended as to enable the Chairperson of the Committee to have a deliberative vote only;

3. That this Council permits the Select Committee to authorise the disclosure or publication, as it thinks fit, of any evidence or documents presented to the Committee prior to such evidence being reported to the Council; and

4. That Standing Order No. 396 be suspended to enable strangers to be admitted when the Select Committee is examining witnesses unless the Committee otherwise resolves, but they shall be excluded when the Committee is deliberating.

(Continued from 29 November. Page 649.)

The Hon. K.T. GRIFFIN (Attorney-General): I do not support the motion but I can read the numbers in the Council. In my view, the motion is inappropriate and I think very largely arises from the combination of the Opposition and the Australian Democrat hysteria about contracting out. The contract has actually been executed, is now being implemented and will have significant benefits for South Australia. If members opposite and the Hon. Mr Elliott want to do something constructive then I would suggest that they might look more carefully at some of the policy issues about the structure of any form of parliamentary involvement in looking at contracts. There is no doubt that that is an issue which was raised by the Auditor-General and about which others as well as the Government have made observations.

When it comes to looking at this contract I suggest that there is no benefit that the Parliament or this Council can obtain from the establishment of a select committee. The contract has been executed; it will be implemented. To do otherwise will undoubtedly lead to contractual disputes if the Legislative Council or a select committee, in particular, seeks to undermine it. That is the perspective which I seek to put upon this proposal for a select committee. On the basis that this will be supported by the Opposition I want to move three amendments. First, I move:

Paragraph 2: To insert prior to the words 'That Standing Order No. 389' the words 'That the committee consist of six members and that the quorum of members necessary to be present at all meetings of the committee be fixed at four members and'.

If I can make some observations about that, the fact is that the Government has 11 members in this Council, the Opposition nine and the Democrats two. It is appropriate in those circumstances to acknowledge that in terms of numbers there is an equality between those which the Government has and those of the Opposition and the Australian Democrats. In those circumstances it is appropriate to reflect it in the structure of the select committee. That was, of course, the structure of the SATCO select committee established in October 1987 reflecting then that—

The Hon. M.J. Elliott interjecting:

The Hon. K.T. GRIFFIN: Well, it was a six person committee.

The Hon. M.J. Elliott: I am referring to the last one.

The Hon. K.T. GRIFFIN: It was not the last one. I want to draw attention to that one in particular, because there are some other aspects of that committee which I think are relevant to other amendments which I will move. On that occasion and in that Parliament the Labor Party had nine members, as far as I can recall, and certainly did not have a majority but with the Australian Democrats had an equality of numbers with the then Opposition. It seems to me that that avoids the sorts of problems that seem to have been around in relation to the five member committee dealing with SA Water Corporation where a majority, without the involvement of Government members, is able to run the select committee in a way which takes no cognisance of the interests of other members of that committee.

Most select committees have operated on the basis of cooperative effort, even those that in more recent times have been comprised of five members—a minority Government membership of two, two Labor Party Opposition members and one Australian Democrat, except for what appears to be a preoccupation by some members of the SA Water select committee with flexing the muscles, using the numbers, and—

The Hon. L.H. Davis: And ignoring Standing Orders!

The Hon. K.T. GRIFFIN: And ignoring Standing Orders, and ignoring the normal conventions in relation to the calling of meetings of the select committee. That is my first proposition, that there should be six members of the select committee, if it is to be established.

The second amendment relates to paragraph 3 which is as follows:

This Council permits the select committee to authorise the disclosure or publication, as it thinks fit, of any evidence or documents presented to the committee prior to such evidence being reported to the Council.

I move the following amendment:

Replace paragraph 3 with the following paragraph:

3. In making the said inquiries, publication of any evidence taken by, or any documents presented to the committee, including the tabling of such evidence and documents in the Council, shall be prohibited unless specifically authorised by the Council.

So, the Council ultimately controls the publication of evidence taken by the select committee or documents presented to the select committee. That is particularly important because there will be information in the contract documents which will be commercially sensitive. I say 'commercially sensitive' advisedly. I am not saying 'commercially confidential', which has some rather sinister connotations as a result of the previous Government's always claiming commercial confidentiality as the reason for not disclosing contractual arrangements, but commercially sensitive. There will undoubtedly be intellectual property or know-how, some of which may be protected by patent, trademark, or copyright laws, but other not, which in a business environment is recognised throughout the western world at least as being capable of legal protection. It is inappropriate that that sort of information, which might be used by competitors, should be available in the public arena.

The members of the select committee, I would suggest, should not be making the decision about, 'Yes, this is commercially sensitive', and 'That is not, and we will release it', whether looking at the evidence as a whole or on an *ad hoc* basis. The committee is not necessarily the best equipped to make that judgment. But nevertheless, ultimately, the Council will make that decision, and that is the purpose of my amendment.

I move it in that form because, in October 1987, the Legislative Council supported a provision in the resolution establishing the SATCO select committee recognising that there was likely to be commercially sensitive information in the documents which the select committee may require to be produced. That select committee was able to gain access to confidential information, and I do not remember any member of the select committee leaking information. The resolution establishing the select committee, in conjunction with the Standing Orders, prevented the leaking of information.

The Hon. L.H. Davis: One person today learnt on the air that he was going to be asked to appear before the committee. It is remarkable.

The Hon. K.T. GRIFFIN: That is the SA Water Corporation select committee. I think that is largely because there are relatively new members on it who do not understand some of the conventions by which the Parliament operates. In the public arena everybody thinks that the Labor Party, the Liberal Party and the Democrats are at each other's throats, but we observe certain courtesies and practices and endeavour to make the system work. If we did not talk to each other and have some arrangements between us but started to play the numbers game in terms of select committees, the whole thing would break down. It would be tit for tat, 'You wait until someone else has the majority,' and so on. It does not work that way.

There has been a measure of honourable behaviour between the members of all political Parties in the Parliament. Otherwise, as I said, it will not work. We will end up with a real dog fight from which no-one benefits: not the Legislative Council, the Parliament or the people of South Australia. It is for that reason that I think a responsible approach ought to be taken to this select committee, if the majority decide to set it up, and that the information obtained ought to be treated confidentially.

It is all very well to suggest that the committee should have the power to exercise its own discretion as to what should or should not be released publicly. I suggest that is an inappropriate way to operate, largely because it is an *ad hoc* approach to a determination about a whole picture. It is easy to say, 'This piece of information is good stuff and we will get it into the public arena because it ought to be there,' without recognising that it may have some serious ramifications for the parties to the contract if it is put into the public arena and is not measured against other parts of an arrangement or taken in its proper context.

I remind honourable members that if this motion is carried, it will still be open to the majority in the Council to decide to release particular information. There is that protection: that the whole Council is able to participate in that important decision. My third amendment is to leave out paragraph 4, which reads:

That Standing Order No. 396 be suspended to enable strangers to be admitted when the select committee is examining witnesses unless the committee otherwise resolves, but they shall be excluded when the committee is deliberating.

It seems inappropriate, with a select committee of this kind, that it should be a matter for the committee to decide, 'We are examining this particular witness and we will allow the public to be admitted or not, as the case may be, on an *ad hoc* basis.' It seems to me that the appropriate package—apart from the question of the membership—is to adopt my amendments to paragraph (3) and to leave out paragraph (4) so that the select committee operates in a responsible way ensuring that members are bound by the provisions whereby they cannot leak or disclose information obtained by the select committee before the Legislative Council makes its own decision as a whole on access to certain information.

I want to draw the Council's attention to an equivalent situation, that is, in relation to the Industries Development Committee, established under the Industries Assistance Act. That committee is established by statute, but it has two members from the Legislative Council, two members from the House of Assembly and one other person. But members of that committee are required to give a declaration under the Public Finance and Audit Act, which is a declaration to keep matters confidential. That committee deals with very sensitive information—applications by companies for Government assistance.

The Government refers these matters to the IDC, which receives very sensitive information from those seeking assistance. We do not have leaks from that committee—partly because by statute the information is required to be kept confidential but, more particularly, because the culture which prevails is one of ensuring that propriety is maintained and that conventions are respected, and it is not the intention of the committee to damage the Government of the day—indirectly—by undermining an application for assistance.

That is what is happening with the SA Water select committee: there is a deliberate intention to play the system to disadvantage the Government, regardless of the adverse effect it might have on the people involved, on the people of South Australia, and on the State's capacity to attract other business to come to this State. It may be that that is the political agenda that the Hon. Mr Cameron and members of

the Opposition are seeking to run, but they do themselves and the State a disservice by their approach to this issue. If that is the way they want to play it, then the message is quite clear: companies will not come to South Australia. Young South Australians will not be given the opportunity for jobs, and this State will languish as part of the rust bucket States of the Commonwealth.

Of course, we would resist that sort of description being imposed upon South Australia. But, ultimately, if the Opposition continues to play the games it is playing in relation to the SA Water select committee, it will have that effect, because no-one who is reputable, who wants to do something good for the State as well as for themselves, will want to run the gauntlet of this mishmash approach by the Opposition.

In relation to information technology, there may be two separate issues. One may be the policy issue, and it is fair enough for that to be examined; on the other hand, there is the detail, and it is that, I would suggest, that could be quite sensitive commercially and prejudice the interests of the companies. As the Auditor-General has said, in the longer term we should perhaps be looking at some other mechanism by which information about outsourcing can be addressed. However, the Government has not made any policy decisions on that, but quite obviously we will have to think about it as much as other members of the Parliament will have to think about that issue. I urge members of the Council to support my amendments, because they are in the best interests of the State, and not only of the parties who may have involvement in outsourcing in relation to information technology.

The Hon. R.I. LUCAS (Leader of the Opposition): I rise to oppose this motion to establish a select committee to consider information technology contracting and, in particular, the EDS contract. I say at the outset that I am intrigued by this further motion from the Hon. Mr Elliott. It was not more than three years ago that the Hon. Mr Elliott in this Chamber, in defeating a whole series of amendments moved by the then Liberal Opposition to the Parliamentary Committees Bill, stated unequivocally on the record that he was not prepared to support, once the Standing Committees were established, a whole series of *ad hoc* select committees in the Legislative Council. He expressed some criticism of the process of the establishment of select committees and expressed support for the new regime of standing committees, and stated unequivocally that this would lead to a reduction in the number of select committees of the Chamber. He also stated that he would also not be supporting or be party to a further proliferation of select committees over and above the standing committees in the Legislative Council.

I now look at the procedures for the notices and Orders of the Day for the Legislative Council and I note that the Australian Democrats and the Australian Labor Party—obviously with the full support of the Hon. Mr Elliott—have now established, or will have established if this is successful, four separate select committees in the Legislative Council. There is one on Modbury, one on EWS, one on Mount Gambier Prison and there is soon to be one on EDS. We also have—not all the responsibility of the Hon. Mr Elliott—three joint committees, one established only recently (I think either this year or last year), the Joint Committee on Retail Shop Tenancies, which I think was brokered by the Hon. Mr Elliott. We have three joint committees and we will have four select committees being established in the Legislative Council as well.

I must say that I am intrigued. The Hon. Elliott is always keen to remind Government members of their previous statements and to quote them at length in his various contributions to the Parliament and so I would like to return the favour to the Hon. Mr Elliott and quote back his words of wisdom of some two or three years ago in the establishment of the Parliamentary committees and to indicate that he, too, is not averse to obviously reversing his position, comprehensively and absolutely, regarding select committees.

The Hon. M.J. Elliott interjecting:

The Hon. R.I. LUCAS: I am further intrigued because I can recall, when in Opposition, friends and colleagues from among the then Labor Government—and some who are not friends and colleagues from the then Labor Government—being critical of the Liberal Opposition for establishing what they said quietly were political select committees. On occasions, the Australian Democrats joined those particular criticisms as well—

Members interjecting:

The Hon. R.I. LUCAS: That is what I am saying. I am intrigued. I am reminding the Democrats of their pious words when we were in Opposition. I have a very long memory.

The Hon. M.J. Elliott interjecting:

The Hon. R.I. LUCAS: I have a very long memory and I can remember full well the criticisms made of the then Liberal Opposition that, in some way, the establishment of select committees of a particular nature and form were political select committees serving to debase the tradition, culture and convention of the Legislative Council select committee system. Members like the Hon. Ron Roberts and the Hon. Trevor Crothers, and a number of other members from the Labor Party, together with the Hon. Mr Elliott, were not averse to making criticisms of the position adopted by the Liberal Opposition.

All I am placing on record is that, in relation to these committees, if there were to be a criticism of the select committees moved by the Liberal Opposition, then the committees being moved by the Democrats and the Labor Party equally (if Labor and Democrat members were honest to themselves) ought to attract the same criticism that they made of the position adopted by the Opposition. You, Mr Acting President, know full well the views that you held when in government about the establishment of certain select committees by the Liberal Opposition, and I know that you, too, Mr Acting President—let me share my criticisms around the Chamber—supported a whole series of select committees which, on your own definition and the definition of many of your colleagues, were political select committees, designed to make political points, not designed to attend to the meaty issues, as the Labor Government members would like to define whatever those issues happen to be in government. But these issues in some way were political issues.

The Australian Democrats in particular have selective memories when it comes to the establishment of select committees, as do some Labor members. I also want to place on the public record my very great concern at the process that has been adopted by the Australian Democrats in relation to the establishment of this select committee. We in this Chamber have established a pretty good process for handling Government and private members' business in this Chamber. We are much more amenable in this Chamber, I believe, than are members of the House of Assembly in terms of their process and procedure. Generally, we abide by the conventions of the Legislative Council.

In relation to this motion, all the established conventions were thrown out of the window by the Hon. Mr Elliott. It was introduced on Wednesday and, without giving me as the Leader of the Government in the Council, without giving any member of the Government Party any notification at all, not even the courtesy of one word of discussion or consultation, the Hon. Mr Elliott, the Leader of the Australian Democrats, threw every convention that we have accepted in relation to process and procedure for private business or, indeed, Government business, out of the window yesterday and, together with the Labor Party, connived to have this motion rammed through on 24 hours' notice.

I would be very surprised, Mr Acting President, knowing your views in relation to process and procedure that, should you have had a say in this, you would have supported knowingly such a complete abrogation of the established conventions, practices and procedures that we have in the Legislative Council for handling private members' business.

Members interjecting:

The Hon. R.I. LUCAS: The Hon. Ron Roberts talks about 11 November 1975. All I can say is that, if what the Hon. Mr Elliott is doing here is indicating that as Leader of the Australian Democrats of this Chamber he is no longer prepared to abide by the established practices, procedures and conventions that we have established in this Chamber, then let him say so. Let him say so in this Chamber, because if he wants Rafferty's rules, then everyone can play that game in this Chamber.

I do not want that. As the Leader of the Government, representing Government members in this Chamber, I do not want us to descend to that standard. The Government would like to continue with the established procedures and practices. As a Chamber that generally operates very efficiently, we do not believe that, because the Hon. Mr Elliott wants to get a political issue on the agenda very quickly, we should throw all the procedures out the window and that Government members, and I as Leader of the Government, in particular, not even be given the courtesy of one word of advice or consultation, and the first I hear of it is when I am advised, on 24 hours notice, by my own or the Opposition Whip that a vote will be taken on this issue.

The established procedures allow Government, Democrat or Labor members, when an important issue is brought into this Chamber, to go away and consult in their Party rooms—and that is easier for the Democrats, but much more difficult for a Government with 47 members—and discuss what their attitude ought to be to a motion or Bill. Because the Leader of the Democrats, supported by the Labor Party, has thrown this convention out the window, Government members have been placed in the untenable position of not be being able to discuss, consult, research and prepare its response to this proposition for a select committee.

The Government has always been amenable to delaying votes to the following week if members are not ready. If the Hon. Mr Elliott is not prepared for a piece of legislation or a Bill—

The Hon. K.T. Griffin: Even if we have got the numbers.

The Hon. R.I. LUCAS: Yes, even if there were agreement between the Labor Party and the Government. On occasions, in their more malicious moments, the occasional Labor member might say, 'What the heck: let's get on with it.' The Government has adopted the position of abiding by these conventions and not seeking to take advantage of the occasions when the Democrats are either not prepared or not present in the Chamber. It is not just an advantage to the Democrats or the Labor Party. I acknowledge that there are advantages for the Government as well.

There are advantages for everyone in our established conventions, but if we are now going to establish a new standard—and in my judgment the lower standard—of just allowing the majority of members in this Chamber to ram through their particular view, whenever they happen to get a majority on any occasion, contrary to the conventions and without consultation with the other Party, this Chamber will descend to Rafferty's rules, to the detriment of our parliamentary process and to the detriment of proper consideration of both private members' business and Government business.

When talking about practices and procedures—and I intend to move an amendment to this motion—I have also been gravely disturbed by another convention which was threatened. Without doubt there was an intention by Labor and Democrat members to break another longstanding convention that has always bound the practices of this Chamber and our select and standing committees. That was the threat made by members, supported by two Labor members and one Democrat member, to convene a meeting of a select committee in the absence of two Government members.

One Government member had a medical appointment and another member had an appointment and could not make it to the particular select committee meeting. The Labor and Democrat members threatened the Government members that they would throw out the window again the longstanding convention that meetings of select and standing committees would be convened only when all members agreed that a meeting could be held. The Hon. Mr Elliott knows well that that convention was agreed to by Labor members and a Democrat member and that it was going to be thrown out the window. Government members were threatened.

The Hon. M.J. Elliott: By whom?

The Hon. R.I. LUCAS: By representatives of those members. If those two Government members were not going to attend, the meeting would be held in their absence. They are the grave concerns that I have at the moment about some of the practices and procedures that are being threatened or activated by the Leader of the Australian Democrats in one case in relation to this select committee, supported by the Labor Party and by a member of the Labor Party supported by another, as well as by a member of the Australian Democrats in relation to the second issue.

I want to place on the record my abhorrence of what is happening. I indicate on behalf of Government members that I want all fair-minded members in this Chamber—and I believe that there are fair-minded members here—to speak to some of their colleagues and to start thinking again about what our practices, procedures and conventions will be in the future.

On behalf of Government members, I say unequivocally that the Government wants to see the pre-existing practices continue. That is the Government's position. Over the coming weeks and months leading up to the next session, I want to have discussions with the Leader of the Opposition and the Leader of the Australian Democrats to try to re-establish some sort of an agreement in relation to those practices and procedures.

I place my concern on the public record, because I believe that all fair-minded members in their Caucuses and Party rooms need to think seriously about where we are at the moment. All fair-minded members should put their point of view to their Leader, so that before the next session we can

come to an agreement as to how we will continue, I hope, the pre-established practices and conventions that we have generally abided by in this Chamber. In that light, I therefore move to amend the motion as follows:

After paragraph 2 insert new paragraph 2A—

That of the three members that constitute a quorum:

one shall be a member of the group led by the Leader of the Government in the Council;

one shall be a member of the group led by the Leader of the Opposition in the Council; and

one shall be from the Australian Democrats.

Obviously, the Government's preferred position is that which has been moved by my colleague the Attorney-General. In support of that amendment, I indicate that when the Chamber had 10 Labor members, 10 Liberal members and two Democrats it was eminently sensible to have 2:2:1 on a select committee. Labor and Liberal were exactly the same, and the Democrats provided the balance. Therefore, 10:10:2 is an exact replica in ratio terms of 2:2:1 or a five person select committee.

However, in this new Parliament we have 11 Liberal members, nine Labor members and two Democrats. So the Labor Party and the Australian Democrats should have exactly the same number as the Liberal Party. We are not therefore in the same ratio as in the last Parliament of 10:10:2; we now have 11 Liberal members, and 11 Labor and Democrat members. Therefore, the Government's position, as it has moved on a number of previous occasions, and for the reasons supported during the last Parliament, is that this select committee ought to reflect the power balance within the Chamber (10:10:2), so it ought to be 2:2:1. The Government's position is entirely consistent: the power balance in the Legislative Council Chamber ought to be reflected in the power balance in the select committee.

Therefore, a proposition of 3:2:1 with three Government members and three non-government members entirely reflects the power balance within the Legislative Council Chamber of 11:11. However, as the Attorney-General has indicated, he is realistic enough, as am I, to know that it is unlikely that that eminently sensible proposition will be supported by the majority in this Chamber. Therefore, I believe we ought to look at our Standing Orders. I have never had to worry about this before because I have never known an occasion when we have not agreed—Labor, Liberal and Democrat—when a particular meeting of a select committee or a standing committee would be held. It has always been an unwritten convention that there had to be a Labor member, a Liberal member and a Democrat.

On occasions, I can recall select committees where four members could attend but the one member who had a particular interest and wanted to ask questions could not and the meetings have not been scheduled for those occasions. In relation to Marineland, SATCO and a range of select committees that I have sat on they have operated under those practices and procedures. There was always an agreement when we would meet. We never had a criticism from one Party that it was being excluded from a meeting. From memory, there have even been occasions when we have given undertakings to members of the Labor Party that, whilst we outnumber them at a particular meeting, we would not take advantage of that by way of any motions or votes recorded in the proceedings of the select committee. Again that is all sensible and the way procedures ought to operate in our Legislative Council.

Therefore, I have never even contemplated the notion of having to seek to insist that there be at least a representative of each of the Parties present at a meeting to constitute a quorum. I never contemplated that anyone would even think about having a select committee meeting when one of the Parties that wanted to be present was not represented. But, given the circumstances of the past 24 hours, clearly there is at least one member—supported by some others—who is prepared to go ahead in certain circumstances to have select committee meetings without Government members when they cannot attend. In those circumstances, the fairest thing that this Chamber can do until we can look at changing our Standing Orders is to support the amendment which will ensure that this sort of strongarm tactic, this sort of threat, cannot be allowed in relation to this select committee on EDS.

I now refer to some of the issues that the Hon. Mr Elliott raised by way of reasons for moving for the EDS select committee. The Hon. Mr Elliott claimed in his contribution to have received information that EDS only learnt in the past few days that it would have to pay sales tax on hardware purchases that related to the contract. The Hon. Mr Elliott referred to that at some length in his contribution yesterday. He made the claim that this was some 22 per cent. In *Hansard* yesterday the Hon. Mr Elliott said:

I thought that since it was to be supplying the Government it would be sales tax exempt—and this is 22 per cent.

The honourable member then went on to make some further claims in relation to this and said:

At this stage that is only a claim, but indeed, if that was the case, if EDS was being set up for a sales tax that it was not aware of—and I must say that is its fault largely—

Then there was an interjection from the Hon. Mr Roberts which diverted the Hon. Mr Elliott for some time in relation to the Yanks and the French. Anyway, I have been advised that this claim made by Mr Elliott is not true. The negotiations with EDS were conducted between negotiating teams on the basis that EDS would be subject to sales tax for any purchases it makes in relation to the contract with the Government. Mr Elliott also made some claims in relation to data security arising as a result of the contract. I have been advised that members should refer to the Premier's ministerial statement on 21 November this year in which he said:

Under the contract, EDS has acknowledged that it is the custodian, not the owner, of State data in its possession by virtue of the contract. . . EDS has agreed to comply with the State's reasonable personnel clearance requirements for access to sites, equipment and data. It must also comply with each agency's security policies in place at the time of transfer. . . special provision has been made to ensure that the Auditor-General has logical and physical access to all the State's data for the purposes of the Public Finance and Audit Act 1987.

Mr Elliott questioned how service quality would be measured. Again, I am advised that the Premier has indicated, as previously outlined, that the Auditor-General will play a key role in ensuring that South Australian taxpayers are getting the service required under the contract, including penalties for failure to deliver. These include a financial penalty of $10 million for a single breach and $50 million for multiple breaches. Again, I am advised that this issue is subject to the scrutiny of the Auditor-General.

The honourable member made a series of other claims but because of the lateness of the hour I do not intend to go through all of them. If the select committee is to be established then this issue can be explored. The final point I want

to make is that if this select committee is to be, as I said, established contrary to our conventions and rammed through in 24 hours rather than being established in February, I want to place on the record—

The Hon. K.T. Griffin: Nothing will be lost by it; the contract has been executed.

The Hon. R.I. LUCAS: Exactly. If this select committee is to be established in a hurry, I hope that all members of the select committee will be prepared to sit on the committee (as I would be if I happen to be a member serving on the committee) at considerable length and take evidence in relation to EDS through the month of December and up to Christmas to ensure that we get on with this task. If we are to establish this select committee at short notice then it behoves all members of the select committee—and I notice the Hon. Mr Holloway nodding in agreement with that—as we lead into Christmas over the next four or five weeks to devote the time and make the commitment to this select committee to ensure that it can meet regularly during that period and, of course, through January as well. When we meet again in February we will be able to report on the frequency of the meetings of this select committee and the reasons why it might not have been able to meet if, indeed, that proves to be the case.

The Hon. T.G. ROBERTS: I support the motion moved by the Hon. Mr Elliott. I do not agree with the amendments nor a large percentage of the contribution made by the Leader of the Government in this Council. It is a known fact to the public that the Government has a huge majority in the Lower House. We work in a bicameral system that sends half of the members of the Council to the people every election while the other half remain to provide some stability in relation to the Legislative Council and the bicameral system.

There is a publicly stated position for support of the bicameral system within this State in relation to the Legislative Council, because it has been democratised to a point where it has satisfied the requirements of most members of the Labor Party. It is elected on full adult franchise, but it was not when the policy developed. I have not seen too many policy changes debated for some time. We have worked in a system that has allowed the Lower House to be the dominant House within a bicameral system, and the Legislative Council has been a House of review working in conjunction with the committee system. That system has worked for a very long time.

We now have a huge majority in the Lower House where the debates on important matters affecting many people have been cut short. The numbers in that House are used in an inappropriate way with respect to how a democracy functions. The business of that House is carried on in such a way that the Opposition is not able to provide what would be regarded as adequate opposition in a democracy. This happens every now and again. Historically, huge majorities in some Lower Houses in States have not benefited the Government in power, because they take too much power into their hands and make too many changes in too short a time.

That not only impacts on their ability to carry out those things in an effective, efficient and satisfactory way that meets the requirements of the electorate, but they get themselves into trouble because large majorities tend to turn inwards and affect good government. In the time that I have been a member of the Legislative Council we have been able to operate with reasonable rules with which everybody can agree. There have been occasions when there has been abuse of privileges in relation to the standards and formats by which we have operated, but over time we have been able to work our way through them.

The committee structure has been an important part of the role played by the Legislative Council in integrating the transfer of power between the two Houses. It has been able to provide a modifying effect on many of the legislative programs which come through and which have been referred to select committees or by the process of standing committees picking up particular referrals. As the Leader of the Government said, they have operated in a satisfactory way until recent times.

We had a motion before us relating to the ERDC when the Leader of the Australian Democrats was accused of breaking a confidence with respect to the release of information. Numbers were used to try to change what could be regarded as the standard operating format regarding the release of information from that committee. The release of that information to the public arena did not impact or affect one Party's position in relation to how the community viewed the Democrats, the Labor Party or the Liberal Party, but there was some discussion as to whether there was a formal breach of Standing Orders in relation to that release.

I could see that pressure was building for that committee to change what I regarded as a fair and reasonable way for members to operate. I felt that when there was a public meeting the information was made public and that it was fair for individual members to be able to go to the public arena and make statements about the information, but not the deliberations of the committee.

The Hon. Carolyn Pickles: As other members have done in the past.

The Hon. T.G. ROBERTS: As other members have done when we were in Government and they were in Opposition. If we want to dig into the grab bag for examples, I can give the illustration of one member lining up the media to interview a witness who was walking up North Terrace. I can still see his face now. He was about to give evidence to a committee, and suddenly he was ambushed by the electronic media.

He did a sidewalk interview that gave his position to the media in relation to how he saw his evidence. He was not very happy about it; it was not an accident that the electronic media was standing there waiting for him. He had been tipped off by a member. That is something that is a one-off. It is probably an abuse of privilege of the committee; it is probably an abuse of that individual's rights relating to his freedom of movement and his ability to give that evidence. As Chair of that committee, I did not seek solace in bringing it before the House or censuring the member who had contacted the media to allow that to happen. Over the time, it has not been considerable abuse, but there have been a number of individual abuses of the committee system by individuals so that Parties or individuals can take advantage of the committee system.

We have here some accusations of current abuse. We now have the Leader of this House stating that the whole of the committee system is at risk of falling to bits on the basis of what is happening currently. I think that before the House gets into a position of drastically or radically changing the committee system to incorporate the needs and requirements of the Government at this time, we all need to take a breath. The suggestion that I made in relation to the ERD Committee's problems needs to apply here.

The honourable member has moved a motion that is perfectly reasonable in relation to the taking of evidence on such an important matter. We have to separate the two issues. One is a motion on the Notice Paper in Private Members' Business that relates to how a committee is to be structured. The amendments have been moved to try to ensure that the Government's position in relation to the formation of those committees is maintained and that the power of the Government is dominant in relation to how those committees are structured and how they take evidence. I have been on a number of select committees that have made meeting dates that have not included a cross-section of Party members. It is not a usual thing—

The Hon. R.I. Lucas: With their agreement.

The Hon. T.G. ROBERTS: Yes, in most cases with their agreement, where people have apologised because they cannot attend. But the other members have not become paranoid about taking evidence from witnesses. If the witnesses are important witnesses, then it is up to the individuals to shift their workload to ensure that they are available to attend those meetings to hear the evidence tendered; either that, or they go to *Hansard* and read the evidence that has been provided by those witnesses.

We have a motion that prevents those sorts of agreements being struck. There is another unwritten agreement that you do not formulate reports and you do not formulate final positions without a cross-section of the Party membership being present. You do not make a final report if one or other of the three major Parties is not represented. That is one of the standard compliances that we have, and I have not seen that broken in the time that I have been on select committees.

That has always been respected. But in relation to one of the major Parties or the Democrats being absent, that is a decision they make. If there are excuses for people to be absent from a meeting where important witnesses are to present themselves, individual members have to weigh up whether their presence at that meeting is important or whether the alternative meeting or alternative responsibilities they have set themselves are the ones they finally determine to meet. I think it is an over-reaction to a problem that is starting to emerge which can be resolved by discussion, and I would like the Government to look at withdrawing the amendments to the motion so that we can take a step back and try to overcome the problems that are emerging through the standing committees and now through the select committees.

It is no accident that this is happening: it is a shift in the political balance of the committees and, certainly, the amount of information that is starting to come into the committee process that would normally be expected to go through the Parliament is starting to put pressure on the committee system, and that is a bad thing. The normal process for good Government would be for the evidence that we will be taking on EDS, on the privatisation of water, on the privatisation of prisons, on transport and on all the initiatives and the radical conservative policies—

The Hon. R.I. Lucas: I've contracted out speech pathology in the Education Department: you had better establish a select committee on that.

The Hon. T.G. ROBERTS: No, I don't think that too much concern has been expressed by the community about speech pathology. If the community determines that a select committee be set up, we would be obligated to look at that process. The Government should look at the changed role and responsibility of the Parliament in relation to major issues that we should be discussing in both Houses. If we are to examine evidence and contracts in relation to major projects that will have a major impact on the future of the State, the Government should give some consideration to allowing the committee system at least to examine those processes.

What we have here are elements of the Government unnecessarily shadow boxing, and what needs to be done, if there are confidences on sensitive issues that need to be maintained by the Opposition through the committee system—and I understand what the Leader said—it is up to people to exert pressures on those who are breaking the conventions of the committees, to have a chat with them and make sure that the pressure on the committee structure is not broken, so that the committee structure can at least maintain the confidence of the members involved in it.

If the confidence of the members is broken in relation to the committee structure and those witnesses on whom we would be relying to put information to the House through those committees, we have a real problem, because it will not be the members who will be making excuses not to attend those meetings to make sure they are inquorate, it will be the witnesses who are to come before those committees who will be nervous about making evidence available to the committees and who will be using all the excuses in the world to make sure that they do not have to attend.

The public is then in a position where the Parliament is not receiving information around major issues where legislative change is not necessary but where policies are impacting out there in the community. If we cannot find a formula in which people can have confidence inside the Parliament, we may be faced with a situation whereby people outside the Parliament do not have any confidence in it at all.

It may be as a result of a fit of pique that we have been presented with these amendments; it may not. If it is not, the intentions are quite clear. Some people want to control the Lower House with as little debate and decorum as possible. The Legislative Council, as a House of review, tries to weigh up the evidence around the Bills and the consultation processes that occur through the committees. We do not want our committee system in tatters, because I do not think that augurs well for the responsibilities we all have in the radical conservative policies that are being pursued by the Government away from the scrutiny of the Parliament.

I do not believe that the Government wants that. I believe that what the Government really needs—and the water resources consultation process is a good illustration—is confidence that the Opposition is in a position to be able to tell its constituents and others that the legislation that has passed has been fairly debated and that the evidence has been weighed in relation to those legislative changes, so that there is at least some semblance of harmony in the community. If the committee system is working, those people who take the trouble to give evidence before the committees are happy that the evidence is weighed fairly and that committee reports are based on logic and the weighting of evidence, rather than any political decisions that may be imposed upon the issues referred to a committee.

Even though we are debating this at a late hour on the final day of sitting, I would advocate that we all take a breath and, over the break, try to negotiate a set of parameters with which we can all agree as to how future committees should meet and operate. Let us hope we can maintain the decorum that once existed in relation to committees. Let us try to prevent committees from becoming just another arm of a rorted political process. Let us hope we can get some democracy back into the process so that we can sell the democratic

processes in this State back to our constituents, so that people have confidence that the political process and the bicameral and committee systems are integrated in such a way that the weight of evidence has at least a form of logic, and that people can trust and have faith in the legislation.

The Hon. M.J. ELLIOTT: In closing the debate, I will respond to the issues raised by several members, and at the same time I will respond to some of the amendments that have been moved. The first question is: why have I moved the motion at this stage? Over the past 18 months, any honest person would say that we have been in a period of radical political change—change which I do not believe the electorate contemplated at the time of the last election. In particular, I am talking about privatisation sell-offs and outsourcing, much of which has happened under the Executive Government. It has happened under administrative control and not under the control of the Parliament itself. There has not been any form of accountability—certainly no accountability via the parliamentary process itself.

Relatively small contracts for construction are put through quite rigorous processes by the Parliament, and we are now talking of contracts of $500 million to $1 billion that have no formalised processes at all to examine them. Yet the ramifications of these outsourcings are quite dramatic. Yesterday, the Hon. Paul Holloway quoted the Auditor-General. I will quote another source, Professor Cliff Walsh, who today released his report card on the Brown Government. He devoted one section to outsourcing and, in talking about that, he said:

> The big ones so far—water and IT—could prove to be the most innovative things done in South Australia, at least since Playford, but there are potentially large down sides.

That sentence, out of the whole page, he highlighted. He said that they may be innovative and positive things for the State, but he also said that there are potentially large down sides.

The Hon. J.F. Stefani interjecting:

The Hon. M.J. ELLIOTT: This is Cliff Walsh—a member of the committee which the Government set up to set things running to start off with. It is not hedging your bets—he is saying that it is a big gamble either way: it could be a big win or a big loss, and that is completely true. Professor Walsh has supported outsourcing. He went on later to explain what were the risks and how he believed they could be minimised. He also alluded to the fact that a number of other significant outsourcing projects are still to come. He identified some examples, such as communications, electronic services businesses, spatial information—

The Hon. R.I. Lucas: Another three select committees.

The Hon. M.J. ELLIOTT: You're missing the point, but probably deliberately so. The sorts of sentiments that Professor Walsh expresses there we have seen, even in the *Advertiser* editorials, which mentioned that there seems to be big risks and that this is all being taken on trust. We did for some time take what was happening in the State Bank on trust and we paid dearly for it. Yet, theoretically, that had a means of scrutiny available which these outsourcings have not had.

Many Government members are saying privately that they are nervous about these outsourcings and, although they realise that they could be great positives, there are also enormous risks. That is all honest. The potential for things going wrong has been playing on my mind for a long time. What finally triggered me into action was what came before the committee that was looking at the outsourcing of the EWS.

Clearly, the Ministers who were in the position of having to sign the contract—and the signing was imminent—did not know some fairly basic matters in relation to that contract. How much they did or did not know at this stage I cannot hope to know, but with a contract imminent there certainly seemed to be gaps in their knowledge that caused me great concern. It had me reflecting on what we are doing to keep a proper watch on the way in which outsourcing is working in South Australia. It seems sensible, with a number of other major outsourcing contracts yet to come, that we can look at one major outsourcing that has been done, examine it closely and look at what lessons we can learn.

If other outsourcing projects are also under way, how long will we have? The Government suggests that we wait until February, when the Parliament resumes, then vote on the motion and then establish the committee. My experience is that, after a committee has been established, it can sometimes take a couple of months before it gets rolling, because a research officer must be appointed and witnesses and the like must be advertised for. The Attorney-General will well recall how long it took us to get the shop trading hours select committee rolling. Despite the best will in the world, and we had all promised that we would be finished by Christmas—

The Hon. K.T. Griffin: I couldn't get everyone together.

The Hon. M.J. ELLIOTT: I was not criticising. I was making the point that, despite the best will in the world, that committee took a lot longer to get off the ground than we intended. In fact, it met a lot less frequently than we intended. That is not a criticism but an observation. If we wait until February, effectively we will have put ourselves a couple of months behind, when we would not have done very much, anyway, because we would have had to appoint a research officer, advertise for witnesses and expressions of interest, and written to people—all the mechanical things that committees do when they are established.

So, I make quite plain that, while I think we will get a number of meetings in before Parliament resumes, the important thing is that we will not have to wait until March next year or later before the committee hits its straps, as would have happened if we had waited until February, by which time a number of other outsourcing projects may well have been further along the track. So, if we do learn lessons from the examination of the information and technology project, then we may learn those lessons too late for them to be of benefit. It is a question whether or not the Government feels that it has something to hide that it does not want to be probed or whether or not it sees this as something that can be positive and beneficial.

As I said, a number of Government members have privately expressed concern. They realise that something must be done. They realise that because of the size of these contracts there needs to be some form of effective scrutiny, and I think they realise that ultimately that scrutiny will be parliamentary. I do not think that it will be a committee by committee process on each individual outsourcing project, but I hope that within about four or five months we will have learnt enough from this committee and perhaps from some of the other committees and that we will then be in a position to put in place something permanent which will cope with the situation in the future.

We are addressing something which is a radical change and with which our parliamentary structure at the moment is not capable of coping, but we are attempting to cope. I must say that it is unsatisfactory to set up a whole lot of single committees, but I think we can learn an enormous amount

from studying this large contract that has been signed. It is after the event and is not interfering with the process of negotiation in any way, although we can retrospectively learn things about the negotiating process. We can learn not just about the negatives but also about the positives: what worked, what did not work, and what can happen next time. As I have said, I think it is important: the sooner the committee gets up, the sooner it will be able to report, and the sooner the lessons that have been learnt from the exercise can be of benefit to the Parliament, the Government and the State.

I will move on to the question of the structure of the committees. The Hon. Mr Lucas told half the story as to why the structure was changed. The major reason the structure was changed was that when you have a committee which has three members of the Government out of six members, the Government can—and it did so in the past under a Labor Government—use those numbers to be obstructive. The Government deliberately impeded the functioning of the committee. There were discussions between the Democrats and the then Liberal Opposition. There were no arguments about how many of each Party were in the Council; there were arguments about the fact that we were trying to conduct genuine inquiries but were being frustrated deliberately because the Government was using its numbers so that the committee could not function. The Hon. Mr Lucas knows that to be the case, and he knows that is why it happened.

The Hon. R.I. Lucas interjecting:

The Hon. M.J. ELLIOTT: Well, the Hon. Mr Lucas is not telling the truth. That is why it happened, and that is why the Government cannot afford a change because, right or wrong, the fact is that Governments do not like things to be looked at and they will frustrate the workings of the committee. That is the real world. That is what happened before, and I expect the Liberals in government to be no different from the Labor Party when it was in government. If you have the power, the temptation is to use it, usually just by sheer frustration, to slow things down and to make it difficult to get anything done effectively. The Hon. Mr Lucas knew that we would not be persuaded in terms of the change, but I guess it was certainly worth the argument.

There are problems on the question of the quorum, and the question is worth addressing. I think that the Hon. Mr Lucas has suggested that perhaps the Standing Orders Committee needs to look at a number of questions regarding committees and I am quite happy to participate in that, but I am not happy with it as it stands. I know that on occasions I have absented myself from a committee and said that I was unable to be there but that I was happy for the committee to proceed without me. There is a need for cooperation between committee members, and that sort of process has always worked. I can assure the Leader of the Government that I will seek to ensure that these committees work smoothly. When he was playing his bit of politics previously, he told only half the story. He knows very well that after he approached me about some concerns he had about a committee I did intervene and, to the best of my knowledge, the problems were sorted out.

As usual, he puts half a story on the *Hansard* record. He does it all the time. If you seek to rectify it by an interjection, he will choose not to respond, when he knows that he has been caught out telling half a story. That is precisely what he did in that case. He knows very well that I respect the way the committees in this place work and that I will do everything in my power to make sure that they work properly. He cannot demonstrate any case when I have not sought to do precisely that, although he has tried to paint a different picture. It reflects badly on him that he has chosen to play that sort of petty political game.

The Hon. R.I. Lucas interjecting:

The Hon. M.J. ELLIOTT: You talked about the Democrats in the plural. You put up half the picture. You do it all too regularly when you want to put something on the *Hansard* record to create a misrepresentation. So, I give my assurance that I will continue to do all I can to make sure that the committees work smoothly. I have never sought to frustrate the working of committees. I have been on plenty of committees where there has been frustration. I can think of select committees that I have been on in this Parliament with this Government which hardly ever met, because the Government members frequently made themselves unavailable because they were not too happy with that committee and did not want it to keep going: that was deliberate frustration. If the Government is to start casting aspersions on the Opposition Parties, it could look at the behaviour of its own members as well on a number of committees. Other things have happened on a number of committees which have not been raised in this place but which perhaps deserve to be raised, if the Leader of the Government wants to play that sort of game.

Unfortunately, from time to time members of all Parties may do things that on reflection people will say were not a good idea, and I am afraid that in recent times the Government members have been as guilty as anybody—perhaps more guilty—of messing committees around. I do not know how many times I have been on committees over the past 12 months where meetings are cancelled at the last minute. We have set everything aside. I have had meetings cancelled at five minutes notice probably half a dozen times in the past three or four months, usually because Government members have not shown up. You struggle to get other meetings up because people are making themselves unavailable.

I have as heavy a committee workload as anybody in this place, and I have always sought to make sure that committees proceed, and I believe that my colleague has done the same. If the Government wants to start talking about people playing games with committees, it will have to look in its own backyard first. I commit myself again to making sure that the committee system works properly. I believe in it. In fact, I believe that the Upper House will evolve further and will in time become essentially a House of committees. I believe that the Hon. Mr Lucas has argued something like that in the past, and that may be the longer term future, along with other changes in the way the political process works in South Australia. The role of a House of committees that reviews legislation, that looks at matters on an ongoing basis, can be highly productive and help act as a counterbalance to the Lower House where the Government is found.

In relation to the taking of evidence, I understand the issues raised by both Government members who spoke to this motion and in moving their amendments. Again, I have absolute confidence that this committee will treat matters of commercial confidence as such. In fact, if members stop and think about it, how can the Chamber make a decision about what is or is not released because, under our rules, the only other people who know what has been before the committee are the members of the committee. There is a logical inconsistency to suggest that the House should decide what evidence is seen when the only people who will have seen the evidence are the members of the committee. They are the only ones who will be in a position to say, 'This is sensitive

and this is not.' They are the only ones who can provide that advice.

Ultimately, all parties on this committee must make an absolute commitment that they will be very cautious about material which involves commercial confidentiality. Again, I commit myself to ensure that that occurs. Because I am aware of the other members who will be nominated for this committee, I believe it will not have any problems, although, clearly, its first meeting or two might simply be addressing the issue of how we will handle issues of commercial in confidence so that the committee can then operate confidently.

There are a number of issues that are in flux around committees. That is evidenced by the fact that I have another motion in relation to evidence before committees. This Chamber has to take the bit between its teeth and resolve these issues in a less *ad hoc* fashion than attempting to do it on a committee by committee basis. Again, I am more than prepared to involve myself in discussions in relation to that point. I will be opposing the amendments and urge all members to support the motion.

The PRESIDENT: The question is:

That paragraph 1 of the motion stand as printed.

Question carried.

The PRESIDENT: The question is:

That the words proposed to be inserted by the Attorney-General in paragraph 2 be so inserted.

Question negatived.

The PRESIDENT: The question is:

That new paragraph 2A as proposed to be inserted by the Minister for Education and Children's Services be so inserted.

Question negatived.

The PRESIDENT: The question is:

That paragraph 3 stand part of the motion.

The Council divided on the question:

AYES (9)

Crothers, T.	Elliott, M. J. (teller)
Holloway, P.	Kanck, S. M.
Levy, J. A. W.	Pickles, C. A.
Roberts, R. R.	Roberts, T. G.
Weatherill, G.	

NOES (8)

Griffin, K. T. (teller)	Irwin, J. C.
Lawson, R. D.	Lucas, R. I.
Pfitzner, B. S. L.	Redford, A. J.
Schaefer, C. V.	Stefani, J. F.

PAIRS

Cameron, T. G.	Davis, L. H.
Nocella, P.	Laidlaw, D. V.

Majority of 1 for the Ayes.

Question thus carried.

The PRESIDENT: The question is:

That paragraph 4 stand part of the motion.

Question carried.

The PRESIDENT: The question is:

That the motion moved by the Hon. Michael Elliott be agreed to.

Question carried.

The Hon. M.J. ELLIOTT: I move:

That the select committee consist of the Hons. M.J. Elliott, P. Holloway, R.D. Lawson, J.A.W. Levy, and R.I. Lucas.

Motion carried.

The Hon. M.J. ELLIOTT: I move:

That the select committee have power to send for persons, papers and records, to adjourn from place to place and to report on 27 March 1996.

Motion carried.

SOUTH AUSTRALIAN WATER CORPORATION (PUBLIC INTEREST SAFEGUARDS) AMENDMENT BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 726.)

The Hon. A.J. REDFORD: I rise in relation to this matter particularly in response to some of the comments made last evening by the Hon. Terry Cameron. Never did I think I would see the day that the Hon. Terry Cameron, with his reputation as the financial whiz-kid of the ALP and his reputation for a considered financial contribution to debate in this place, would join in such political opportunism. Never did I think that one of the few voices of economic rationalism in the ALP in the guise of the Hon. Terry Cameron would join with the looney left, the financial neanderthals in the guise of the Australian Democrats, and go smelling roses at the bottom of the garden. Never did I foresee the level to which the Hon. Terry Cameron would go to prostitute himself for so little gain.

What little time it took for the honourable member to jettison a hard-earned reputation for financial reason and join with the Australian Democrats on its frolic in economic and commercial fantasy land. The performance last night shows just how far the Australian Labor Party has to go before it will ever be considered for the Treasury benches. Indeed, the Hon. Terry Cameron has joined in an alliance with the looney left that belies his previously held representation as a man who used to have some financial authority and at so—

The PRESIDENT: Order! There are about seven or eight conversations occurring in the Chamber. I ask members to keep the noise down or to sit down.

The Hon. A.J. REDFORD: —little cost did he lose that reputation. Last night, I interjected on a number of occasions, and the Hon. Terry Cameron, as is the practice in this place, chose simply to ignore those interjections. In my interjections I made the point of asking whether the Hon. Terry Cameron had read the Bill proposed by the Australian Democrats in this place. Instead of answering 'No, I have not, but I will look at it later,' the Hon. Terry Cameron just chose to ignore it. When one looks at this Bill—and these are the depths to which the Hon. Terry Cameron has sunk—one sees some extraordinarily silly and stupid things in it.

The Hon. Sandra Kanck interjecting:

The Hon. A.J. REDFORD: The Hon. Sandra Kanck interjects and I will get to that in a minute. I just urge the Hon. Terry Cameron, who is a man of some ability as the Labor Party has recognised on occasions and called on, instead of being so politically opportunistic as his contribution showed last night, to do what is required of members of this place and that is look at the legislation. I will give a simple example of what the looney left, the Australian Democrats, are putting to this place in the guise of this particular legislation. In particular, I refer to clause 5 of the Bill—

The Hon. G. Weatherill interjecting:

The Hon. A.J. REDFORD: The Hon. George Weatherill interjects, and I am sure he would be most interested to see how the Hon. Terry Cameron has mucked things up so badly,

given the extraordinary factional fights they are going through at the moment. The clause provides:

> The corporation may only enter into an outsourcing contract if the party that is to provide, operate or manage water or waste water services under the contract is a company registered in South Australia whose Articles of Association impose the following requirements.

In ordinary English, basically that says you can sign one of these contracts, according to the Democrats, only if you are a company registered in South Australia, and the Articles of Association, which are basically the rules, must have the following:

> If the shares in the company are offered for public subscription, the minimum subscription is to be $1 000 or less—

not $1 000 or more, but $1 000 or less. One would have thought that the Hon. Terry Cameron, who has come in here with a great financial reputation within the Australian Labor Party, would have actually looked at the Bill before he rose so quickly to his feet to grandstand and prostitute himself so politically, and perhaps see that there are certain elements within this Bill that are absolutely stupid. But he did not do that. He is like a moth in front of the light. He said, 'Beauty, I saw the light; don't worry about any of the detail. We will have a company that can only be there if shares in the company are offered for public subscription for a minimum of $1 000 or less.' If that section is to have any meaning, if you want to invest $2 000, you cannot. He just has not done his homework.

When some members go into this guise of political grandstanding and the guise of denigrating this place so that they can bowl something out and get their two minutes of fame, as the Hon. Michael Elliott is prone to do—he just wants to bowl out a Bill and make a great speech—it is my view that we need to look at this legislation seriously. I then refer to clause 5, proposed section 8A(2)(b), which provides:

> The contract must provide that the corporation is to retain ownership and management of its assets for the effective life of the contract.

If you want to sign a contract for 15 years—and this is the Bill for which the Hon. Terry Cameron prostituted himself—and comply with it over a 15 year period, you had better sell all your motor cars, because you have to make them last for 15 years. You cannot depreciate them or sell them, because this Bill completely prohibits the sale of any asset whatsoever, including the replacement of a motor vehicle or a particular asset, which any business would do in the ordinary course—even, I dare say, the public sector.

I can understand the Australian Democrats being down in the bottom of the garden playing their theoretical and stupid political games. I can understand the Australian Democrats being so far out of touch with economic reality. I can understand the Australian Democrats not understanding basic and simple accounting procedures. We heard the other night in the contribution from the Leader of the Australian Democrats when he was criticising the Blackwood Forest deal, where the South Australian Government was proposing to sell some land to a local council for $2 million, that that should not happen.

The argument was that the South Australian Government should give it to them—after all, it is just an asset shifting from one arm of Government to another—and we should not take that into account. I interjected at the time that we could adopt that procedure; we could say to Laurie Brereton, 'Look, Laurie, we are just another arm of Government. We're good mates. Can we have the airport next week?' I am sure Laurie would say, 'I've read the Hon. Michael Elliott's economic contribution to this whole issue. I understand and I agree with that proposal and you, too, can have the airport after all, because it is only in Government hands.' That is the sort of economic rationality we get from the Australian Democrats.

I would have to say that, even in the two short years I have been in this place, I have become used to the sort of economic contribution the Hon. Mr Elliott makes from time to time. Last night, I found it very disappointing to see, for the sake of a short headline—a quick radio interview—the Hon. Terry Cameron embrace this sort of economic Neanderthal thought process that has been adopted by the Australian Democrats. It is exceedingly disappointing that the Hon. Terry Cameron seeks to prostitute himself so quickly and so early in his career. I must say that, until last night, I thought he had a promising political career. He then goes on and he says that this Bill—this is the one the Hon. Terry Cameron supports (and I know that he has his eye on the Deputy Leader's job)—

An honourable member: The leadership.

The Hon. A.J. REDFORD: No, not the leadership; he is leaving that for the Hon. Paul Holloway. If I can digress, there is a bit of a scheme here. The Hon. Terry Cameron is a floating member as far as factions are concerned: he is not directly aligned. As I understand it, that gives him the opportunity to play maximum political mischief in shifting—

The PRESIDENT: Order! The honourable member should get back to the subject.

The Hon. A.J. REDFORD: I will, Mr President. This is the Bill in which the Hon. Terry Cameron—one who I thought had great economic qualifications—thought we must specify export targets and provide for the payment of appropriate damages. There is nothing in this Bill that defines what is meant by 'export'. I know that, from time to time, the media have become confused about the meaning of 'export'. I understand 'export' to mean that which shifts from South Australia, because I am a true South Australian. The Australian Labor Party, because it is such a centralist Party, has suggested that 'export' covers only overseas issues. I am exceedingly disappointed with the shallow and crass political opportunism of Mr Terry Cameron. I know the light shone, he wandered into it, and he probably has a bruised head at the moment.

The Hon. K.T. Griffin: Trades Hall was glad to get rid of him.

The Hon. A.J. REDFORD: I am not sure about that, because I am told that he is or was one of the shining lights of Trades Hall.

The Hon. R.I. Lucas interjecting:

The Hon. A.J. REDFORD: Yes, but the thing about being a dim light is that when you see a shining light you tend to fly towards it. What is disappointing is that, when it is the Australian Democrats, you really do bang your head, do you not? It saddens me to see the Hon. Terry Cameron, who came into this place with such a high reputation, prostitute himself on the brothel of political expediency, and I am very disappointed. During his contribution last evening he said something which probably prompted me to contribute to this debate more than anything. For the benefit of those few readers of *Hansard*, I point out that often members say things which are appallingly silly, and the Hon. Terry Cameron's contribution last night was no exception. We often let them go past because we have more important things to do, but one thing prompted me into action and I think I should say something in response. I will make the quotation and then put

my point of view so that the record is straight. The Hon. Terry Cameron, in relation to the position of the Premier and the Minister for Infrastructure, said that the Premier wanted to sack him, but:

> . . . he was stopped from doing so by the factional manoeuvrings that were taking place between the Olsenites and the Brownites on that Wednesday night, when meetings were taking place in smoke-filled rooms all over the building. I am a bit sorry—

At that stage I sought to interject, but the Hon. Terry Cameron spoke over me, because it was obviously a very good interjection and he did not have an answer to it. He then said:

> You're in the left right out faction—

referring to me—

> you would not know. You were not invited to any of the meetings, even though you would die in the ditch and vote for John Olsen to become Premier.

The Hon. L.H. Davis: I think he was actually talking about me.

The Hon. A.J. REDFORD: No. The *Hansard* clearly suggests that he was talking about me. I know it was a very confusing speech, because when one prostitutes oneself, as the Hon. Terry Cameron did last evening, these things happen. He went on to say:

> So, I do not know what you had to do with it: not very much at all, I suspect. But we certainly know who the Hon. Angus Redford would have voted for.

Perhaps he was talking about the Hon. Legh Davis. Referring to me, he went on to say:

> He would walk across a mile of cut glass to vote for Olsen. He would vote for Olsen if he could: I know that. The numbers were 18, 13 and five. I know that the Lower House is the only one that votes for the Premier, but I thought it might be interesting to identify a few of the factional allegiances.

Mr President, I know that you are very easily bored by rubbish, fantasy and basic off-the-cuff stuff. It is the sort of stuff that none of us on this side of the Chamber would ever have expected from the Hon. Terry Cameron: it is the sort of fantasy land stuff that we have become accustomed to hearing from the Australian Democrats. It does not belie a person whose ambition is to become Deputy Leader of the Opposition in this place and it certainly does not belie someone who has spent the past couple of weeks sorting out how to get rid of Mr Campbell in Western Australia as a pre-selected candidate from the Australian Labor Party. Mr President, I will not labour the point.

The PRESIDENT: The honourable member would be wise not to do so.

The Hon. A.J. REDFORD: I think it is important that I put my position on the record so that the Hon. Terry Cameron can get it right. I do think that he has some talent, although he let himself down last night. I will say this: the Premier (Mr Brown) has my total support and has always had my total support. The Premier is a man who has inherited one of the most difficult jobs that anyone in this State has ever inherited. The fact of the matter is that he has been confronted by an enormously difficult job in getting this State back on track. I go on record to say that the Premier has done an extraordinary job and deserves the support of not just those members of this Party in the Lower House who have the opportunity to support him through the voting process, but those members in this place. If the Hon. Terry Cameron thinks that I would walk across a mile of cut glass to vote for John Olsen—and I would because he is good—I would walk across two miles of cut glass to vote for the Premier.

The fact is that the Australian Labor Party cannot understand that this Party has not one, not two, but 47 people of extraordinary talent who at any moment could take on the job if the vacancy was created. We are also people of great patience who could do an extraordinary job if given the opportunity; but we are also people who will support those who currently have the job. So if the Hon. Terry Cameron thinks—despite the story that we heard last night that the Deputy Prime Minister was going to throw in the towel for that racist Mr Campbell—that he can deflect those things by making the sorts of comments he made last night, he is sadly mistaken.

In closing, all I can say is that we can only expect better from the Hon. Terry Cameron. We did expect better before last night. His performance last night must have been an aberration. He must not have sought any advice from anyone. He must have done it all on his own. I am prepared to forgive the extraordinarily stupid contribution that he made last night. I am prepared to forgive his political naivety in supporting the fairies at the bottom of the garden, in the guise of the Australian Democrats, in such a ridiculously stupid Bill.

The Hon. L.H. DAVIS secured the adjournment of the debate.

REFUGEES

Adjourned debate on motion the Hon. B.S.L. Pfitzner:

> That in view of the persistent and long-standing claims that the screening process for determining refugee status of Vietnamese boat people is seriously flawed, and that these claims have been substantiated by documented evidence produced by the boat people and supported by the Australian Vietnamese community and prominent Australians, the Legislative Council of the South Australian Parliament calls on the Federal Government to investigate these claims and to report back to the Australian community, as a matter of urgency.

to which the Hon. Sandra Kanck had moved the following amendments:

1. Insert 'I.' before the commencement of the motion.
2. After the words 'screening process' insert 'in the first country of asylum other than Australia'.
3. At the conclusion of the motion, insert new paragraph II as follows:

> II. The Legislative Council directs the President to convey this resolution to the Prime Minister and the Minister for Immigration and Ethnic Affairs.'

which the Hon. A.J. Redford had moved to amend by leaving out the words 'other than Australia' in paragraph No. 2.

(Continued from 22 November. Page 526.)

The Hon. BERNICE PFITZNER: In concluding the debate on this motion, I thank the honourable members for their contributions. I would like to make a few points of clarification, some comments on scoring political points and, finally, some comments on the amendments. First, the Hon. Ms Kanck's contribution used the definition of 'refugee' in the broad or loose or popular sense, such as traditional acknowledged refugee, environmental refugee, economic refugee. The screening program in the first asylum country uses the definition of the 1951 United Nations Convention and the 1967 protocol relating to the status of refugee and Australia is a signatory to that convention. I, therefore, reiterate the definition which is used in international law—'encompasses persons outside their country of nationality who are unable or unwilling to return because of a well-founded fear of being persecuted for reasons of race, religion,

nationality, membership of a particular social group or political affiliation'.

This motion therefore is to do with these specifically defined refugees, and the screening process should seek to identify the status of these asylum seekers, according to the definition. We find that the screening process is flawed and corrupt. As a result, there are Vietnamese boat people who should attain refugee status but who, because of corruption, fail to be accorded this status. A separate issue that the Hon. Ms Kanck has identified is the other types of refugee or, to be more correct, the other categories of asylum seekers or displaced persons. These other migrants have different criteria for admission, and this depends on the policy of the Federal Government of the day.

Secondly, I would like to comment on the Hon. Mr Nocella's contribution. He said:

> Australia has been a very active member of this group of countries, has invested nearly $10 million in this program and has as a result accepted about 17 000 Vietnamese refugees. This gives an indication of the magnitude of the program and the resources that have been invested in such a program.

It is for this very reason that we in Australia, being such an active supporter of the CPA (Comprehensive Plan of Action), must make sure that what we are supporting to the tune of $10 million is neither flawed nor corrupt. Further, the Hon. Mr Nocella speaks about the other categories of asylum seekers in the special assistance category and also the special humanitarian program. However, the Hon. Mr Nocella has said:

> To be eligible for the CPA camp component in the special assistance category, applicants must have resided in a camp administered under the CPA at any time since its inception in June 1989 and have returned to Vietnam before 1 January 1996.

Can members imagine a Vietnamese boat person wrongly categorised as not having attained refugee status, therefore possibly a political refugee, returning to Vietnam? I would surmise that he would not emerge from Vietnam again. That is why we have to get it right with regard to the screening of the boat people for refugee status. I thank the Hon. Mr Redford for his contribution. From his contribution we note that Mr Bolkus 'rejects asylum review' and that Mr Howard has said that he will reassess all asylum seekers who have been denied refugee status. Mr Howard's compassion cannot be plainer than that.

The Hon. Mr Cameron has no grounds on which to base his interjection with regard to Mr Howard's stance, nor has the Hon. Mr Terry Roberts in his interjection during the multicultural debate any grounds to infer that Mr Howard is not familiar with multiculturalism. Mr Howard is fully cognisant of multiculturalism. Not only is he familiar with multiculturalism but I venture to say that he is also in tune with it. If one wants to play a little more politics, one could ask a question about the Federal Labor member for Kalgoorlie (Mr Graeme Campbell) and his racist view on Asian immigration. We should not, however, play Party politics on such a serious subject as refugees.

There are now approximately 40 million people in vulnerable situations around the world. The UNHCR estimates that, of these, 19 million are refugees—more than the total population of Australia, to put it in our context. I come now to the amendments tabled by the Hon. Ms Kanck and the Hon. Mr Redford. I support amendment No. 3 proposed by the Hon. Ms Kanck, as follows:

> The Legislative Council directs the President to convey this resolution to the Prime Minister and the Minister for Immigration and Ethnic Affairs.

This amendment gives practical direction to the motion where action can be taken, and I always support being practical. I also support part of the Hon. Ms Kanck's amendment No. 2, which inserts the words 'in the first country of asylum other than Australia', as it clarifies the situation. However, I also support the Hon. Mr Redford's amendment to delete the words 'other than Australia'. The Hon. Ms Kanck's reasoning behind her amendment is that Australian authorities in Port Hedland are 'doing a good job'. However, all first countries of asylum ought to be checked as a matter of impartiality and objectivity, even if Australia is found to be 'doing a good job'. To identify that situation would be a big plus for us, and I ask the Hon. Ms Kanck to reconsider her position on this point. In closing, I commend the motion and part of the amendments to the Council.

The Hon. Sandra Kanck's amendment No. 1 carried; the Hon. A.J. Redford's amendment negatived; the Hon. Sandra Kanck's amendment No. 3 carried; motion as amended carried.

GREAT AUSTRALIAN BIGHT MARINE SANCTUARY BILL

Adjourned debate on second reading.

(Continued from 25 October. Page 331.)

The Hon. M.J. ELLIOTT: I rise to support the second reading of the Bill and to make a brief contribution. This Bill seeks to override earlier moves by the Government to set up a sanctuary that was totally inadequate. I find the sanctuary as proposed by the Labor Party in this Bill also to be inadequate in terms of offering true protection to marine mammals, particularly whales and sea lions. However, what the Opposition offers in this Bill is a significant improvement on what the Government is now offering, and on that basis alone I support the Bill. If it had been a Government Bill I would have been seeking to take it further but, realising that the Government had a commitment less than that which the Opposition is proposing, I realise that that would be a fruitless exercise and as such have not sought to do so with this Bill. With those few words I support the second reading.

The Hon. BERNICE PFITZNER secured the adjournment of the debate.

FISHING, NET

Adjourned debate on motion of Hon. R.R. Roberts:

> That the regulations under the Fisheries Act 1982 concerning ban on net fishing, made on 31 August 1995 and laid on the table of this Council on 26 September 1995, be disallowed.

(Continued from 15 November. Page 448.)

The Hon. M.J. ELLIOTT: I rise to speak to this motion. I do not intend to speak in favour of or against it, but I want to put a number of issues on the record and to flag clearly to the Minister my concerns in relation to these matters. The regulations that the Minister introduced are unfortunate in that they bring together a whole lot of matters that affect professional as well as amateur fishermen and cover a wide range of issues. In my view, those are the worst sorts of regulations because, while one may have concerns about one aspect, in wanting to defeat a regulation one may be invited

to knock out everything, including a number of things with which one may agree. I think that Governments generally should avoid that practice. It is most untidy legislatively to do it that way because of the risk that is taken of important parts of the regulations that one does not want to lose being knocked out because something that is contentious is placed among them. I simply make the comment at this stage that I think the Government should have done this in smaller chunks or certainly separated the issues between professional and amateur fishermen and perhaps further separated those issues again.

The State Government's regulations in relation to net fishing in South Australia raise several questions about the health and management of our scale fisheries, which I understand are worth $200 million to our State. That might be a very surprising figure to most people, but I understand that much of that figure includes the recreational fishery. The professional marine scale fishery is not that valuable, but the great bulk of that $200 million consists of the recreational fishery, primarily in the Gulf St Vincent. When I talk about the value of that fishery, I mean boats, petrol, bait and all the other things that are sold. It is a huge industry, which should not be underestimated.

If the fish populations are at real risk because of netting—and this would not surprise anyone—then clearly I would support a tightening of the regulations. Unfortunately, so far the State Government has not revealed publicly the evidence to show that its regulations on recreational netting are justified. In fact, the Government's regulations fly in the face of the recommendations of its own Netting Review Committee. The Government established the committee, which made recommendations on this matter, but it then chose to ignore those recommendations.

The Netting Review Committee was asked by the Minister to make recommendations to him regarding the management of net fishing, particularly King George whiting. Chaired by the SAFIC Chief, Peter Peterson, and then his successor, Barry Treloar, the ministerially appointed committee spent 12 months looking at this issue. It made recommendations to the Minister regarding recreational netting which the Minister then dismissed in favour of complete bans on recreational fishing in all open seas.

The only remaining areas for recreational netters are the Coorong, the Murray Lakes and Lake George near Beachport in the South-East. I understand that the Minister's stated reason for this wholesale ban was to safeguard the stocks of King George whiting. In my younger days, I used to go netting near Port Macdonnell. We never caught a whiting in our net; we caught tommy ruff and mullet, and occasionally we caught what we called a butterfish, and very occasionally we caught a small gummy shark or a stingray. Once we caught a Port Jackson shark, and it was a bit of surprise when I lifted the net and had it staring me in the eyes. Never did we catch a whiting. I can tell members that, when the Elliotts were out fishing, we were never any great risk to the whiting population of South Australia. In fact, the feedback I get from most recreational netters is that they do not catch whiting.

I have spoken to a number of recreational fishers, both netters and line fishers, and their advice is that the major exception is that the West Coast seems to be the one area where people are more likely to catch significant numbers of King George whiting in their nets. I do not know why that is the case, but it appears to be that the West Coast is where, in certain spots at least, the recreational netters are likely to get King George whiting.

The PRESIDENT: It is where you can catch whiting in the net.

The Hon. M.J. ELLIOTT: That is what I just said: my information is that that is the one area of the State where people with nets are catching whiting. In the rest of the State it appears to be a relative rarity. That begs the question: if the Minister is seeking to protect whiting and people are not catching whiting in their nets in most of the State, why are the netters over all the State being asked to give up that right to net? The Minister has ducked some important questions. It is all too easy for him to say that he will ban recreational netting, even though the evidence suggests that recreational netting is not a cause of fish stock declines, and avoid the real issues. Why are the fish stocks, particularly in Gulf St Vincent, in such massive decline? I will come back to that question.

I challenge the Government to produce the statistics to justify the need for these regulations. What species are being caught by recreational netters, and what is their impact? Where is the evidence? It simply has not been put into the public arena. Can the Government disprove the claim that recreational netters are largely catching species that are not at risk? As I said earlier, the two species that the Elliotts caught in their nets in my younger days were tommy ruffs and mullet. Four species of fish were identified by SAGRIC as being under-fished and certainly having potential for further fishing, and two of those were tommy ruffs and mullet. I think blue crabs were a third and the fourth escapes my memory.

An honourable member: Leatherjackets and salmon trout.

The Hon. M.J. ELLIOTT: Thank you. The Government has to table in Parliament real evidence which supports its wholesale bans and which discredits the recommendations of the netting review committee. We must understand who we are talking about when we refer to recreational netters, to put this debate into perspective. This group of netters is a diminishing number, due to a previous policy of phasing out licences by natural attrition. Most of the netters are now in their later years; they are probably people who have netted for most of their lives. They do not go out very often: some of them go out only a couple of days a year. I recall that my father kept his licence for quite a long time. The net spent all its time next to the shed and once or twice a year it was dragged out. Not only were we not a threat in terms of the species we were catching but also we were out so infrequently that we really did not catch too many, anyway.

My talks with the South Australian Amateur Fishers, Association has verified that the species being caught are mullet, tommy ruffs and salmon trout. They say that recreational net fishers do not catch many whiting at all and that King George whiting are very rare as they are bottom feeders and seldom come that close in to shore. The nets are only one metre from the surface and are set from the shore under strict guidelines, and the risk to the King George whiting is therefore very minimal. I have been told that the fees paid by recreational netters are currently worth $300 000 a year. If these fees were being used to research the impact of netting, we would be in a much better position to know precisely what the problems are, if indeed there are any, from recreational netting.

I return to the question concerning the real problems in Gulf St Vincent. People in the know point first and foremost to water quality. I have been told that this is the most significant cause of our declining fish stocks. It is the effects

on the marine environment and fish habitat of sewage and stormwater effluent outfalls. Along our coastlines we are threatening our nursery grounds and seagrasses because of the impact of effluent and stormwater. We are losing our sand because there is nothing to bind it because of seagrass decline. The problem is at Bolivar, where there is enough discharge to fill the Mount Bold reservoir in 12 months. This effluent is killing bottom feeding species such as whiting and a large proportion of egg cells that move to the mangroves to hatch.

I have been told that anglers are now catching undersized whiting at Sellicks Beach, and that is prompting fears that they are running out of food further up the coast. In the past, whiting have not been caught at Sellicks, but I am told that they are being caught down there. The fear being expressed to me is that they are finding that their normal feeding grounds are no longer suitable and they are going further looking for food. I have put in a freedom of information application concerning the number of incidents where untreated sewage has left the sewage treatment works and ended up in the sea. I am told that it is disturbingly frequent and is very damaging, particularly sewerage works with the outfall at St Kilda, where raw sewage is released as often as once a month or as soon as the plant is overloaded.

Of course, diverting stormwater to wetlands north of St Kilda might be a way of solving the problem. Rather than simply running the water out to sea as we are doing, the Government is proposing irrigation in the Virginia area but it will not use too much of that water during the winter. There needs to be a way of stopping the water from discharging directly into the sea. My belief is a series of wetlands could be set up north of St Kilda which could act as further purifiers and during summer the water could be drawn from those to the Virginia area and perhaps during the winter used for recharging the aquifers, which are sorely depleted. We will need to come up with some quite novel solutions such as that to protect the gulf.

The State Government is further threatening Gulf St Vincent. According to last week's *Sunday Mail*, it is pushing the plan to put an extra mouth into the Patawalonga, and that will provide an additional problem for our coast. We should be aiming to reduce the amount of contaminated water going into the gulf. We will spend a fortune upstream in the Sturt system trying to clean up the water, but nevertheless the Patawalonga has always removed 50 to 60 per cent of the contamination of the Sturt Creek system. It will now be bypassed. All the money we are spending upstream will largely compensate for the Patawalonga but will not remove a lot of the contamination, particularly during times of high flow. The Government's proposal is to open up a new mouth and send it straight out to sea.

Therefore, I have to challenge the Minister. What is the Minister doing stopping recreational fishermen from netting without any proof positive that they are doing damage while, at the same time, the Government continues to allow effluent to go out to sea and is setting up a further proposal to send more effluent into the sea when we know it is damaging to the seagrass beds—that has been the reason for their decline—and is the major reason why there is a decline of fish stocks in Gulf St Vincent. When I talk about fish stocks, I refer not just to recreational fish stocks. Members will find that prawn stocks have declined for exactly the same reason. The Government ducks that one. It is plainly being irresponsible and regarding an industry which in Gulf St Vincent alone is probably worth well in excess of $100 million, and just the angling fishery.

I move onto the question of commercial netting. On a number of occasions I have expressed concern about commercial netting, in particular where netters place their nets around a whole school of snapper and wipe it out. I am not sure whether the practice continues but, in the past, spotters would go out, find a school of snapper and simply put a net around the whole lot. There is no way that a professional fisher with hooks can round up and wipe out a school. Unfortunately, netters can do that.

Having made that sort of anecdotal observation, I believe that Parliament needs to see the hard analysis of the impact of commercial netting on the fisheries. Whether there is a need for a full ban on commercial netting, changes to netting practices or greater restrictions on specific locations in key tourist areas must be clarified. I am certainly aware that, on the West Coast, a number of towns realise how important recreational angling is as a tourist attraction, and they want netting to be removed from the near vicinity of their town. I support them in that, with that reduction being a minimum. Commercial netting may have to go altogether, but we have to get the facts.

It has been put to me that commercial netters play a useful role in terms of guaranteeing a continuous supply of reasonably priced fish in the markets. Seafood is an important part of the South Australian diet and it is sold at a reasonable price. It has been put to me that, without some professional netting, there is a risk that the prices would go beyond the reach of the average person. That would be unfortunate. I am advised, and I was not surprised to learn, that net fishing is more economically efficient than line fishing.

I have been given evidence by several commercial netters in relation to these latest regulations. One netter, Mr Trevor Ebert, has been a commercial fisher on the West Coast for 43 years and a former net director of the South Australian marine scale fishery. He is now deputy director. He maintains that Coffin Bay, which has had its commercial netting season restricted to several months each year, has a very strong King George whiting fishery for both net and hook fishers. He says that the catches in the past two years have been the highest in recorded history, but I must add words of caution about that. Simply because the catches are the highest in recorded history, that does not necessarily mean that a fishery is in good condition.

On another occasion in this place I mentioned the collapse of the Atlantic cod fishery. That fishery was running at near record catches but within two years it collapsed totally, and there is some question whether or not it will recover. The Gulf St Vincent prawn fishery went from record catches to massive decline virtually in a season. When looking at the catch statistics, people have to be careful in saying that the fishery is healthy, because that is not always a true reflection of the situation. In the Atlantic cod fishery, it was found that the cod tended to school in the best places. While the overall population was declining, the fishermen always went to the best places and there were always lots of cod there. The last cod that were left were in the good spots that they always went to. They went back the next season to find that a fishery that had been running for hundreds of years had gone. Whole towns and communities were wiped out economically; yet virtually nobody saw it coming.

That is where I throw in that word of caution, that we have to be very careful not to rely on anecdotal evidence that the catches are fine and, therefore, we can continue fishing in a

particular manner. I also gave the example of the Gulf St Vincent prawn fishery which, years later, has not recovered, although it is my belief that the cause was not over-fishing alone. I believe that it reflects the state of the Gulf St Vincent itself.

Mr Ebert raised concerns about the recommendations in the net review report, which went to State Cabinet. He says that the original representations, which were endorsed by the scale fisheries committee, were very different from the recommendations that were endorsed by Cabinet. He says that the recommendations calling for commercial net closures do not reflect the open consultations with the industry. He claims that some recommendations had never been discussed by industry or the netting review committee.

I note that all major closures have been in the electorate of Flinders. Mr Ebert says that the approximately six active Coffin Bay commercial net fishers have had their season cut from seven to three months. The six net fishers who retained access to the areas are willing to work in a quota management trail, as suggested in the original report, with the quota based on validated batch records of the assessments from 1983 to 1993. The West Coast netters have moved to using five centimetre nets to ensure that the number of undersized fish caught are limited. He says that, by closing more of the area to netters, the large predators, salmon and tommy ruffs, which were previously caught, are not being wiped out and are therefore eating juvenile fish. He also says that if the Government were serious about fishery management in nursery areas it should declare aquatic reserves which close areas to all recreational and commercial fishermen and which allow juvenile fish to escape to sea.

There are also other netters who, because of the latest regulation changes, have been locked out of areas that they have fished for 20 years. One of these fishers, Mr Errol Tyrrell from Cowell, says that the Minister has not heeded the advice given to him from industry nor has he taken into account advice put forward by the integrated management committee; and advice from his own selected netting review committee in November 1984 has also been ignored.

I turn to monitoring. One of the main problems we are now experiencing is inadequate policing of our marine environment. The Government has dramatically reduced the number of fisheries inspectors. There are now only 20 officers to cover the whole State. Not long after the Government came in it gave a large number of fishery officers separation packages. We now have a fishery which is not being policed properly—either the professional or the amateur fishery. The professionals and the amateurs are complaining about that inadequacy, because they know that the fisheries are being plundered by people who are breaking the rules. By not providing adequate monitoring and policing of regulations we are unable to ensure whether regulations that we already have in place are working.

One possible scenario to more effectively monitor our fisheries, which has been put to me, is to combine the Department of Marine and Harbors' boat inspectors with the fisheries inspectors. This would allow one person to police both the safety aspect of boating as well as the fish we take. At the moment, we have separate officers doing those jobs. It is not a terribly efficient way to do things. I had hoped that I would be making my contribution after the Government's spokesman had spoken, and I note that the Hon. Mr Roberts first brought this motion forward some two months ago—

The Hon. K.T. Griffin: But he didn't speak again until 15 November; he sought leave to conclude.

The Hon. M.J. ELLIOTT: Let me finish—

The Hon. R.R. Roberts: Because you people started—

The PRESIDENT: Order! There will be no byplay.

The Hon. M.J. ELLIOTT: I simply observe that I would like to have spoken after the Government's spokesman had made a contribution.

The Hon. R.R. Roberts interjecting:

The PRESIDENT: Order!

The Hon. M.J. ELLIOTT: The fact is that until this point that has not happened. It does concern me that the fishery has been closed for a number of months now. It worries me that it has been done, at least as far as the public is concerned—

Members interjecting:

The PRESIDENT: Order! I ask honourable members to stop talking across the Chamber in front of the Hon. Michael Elliott.

The Hon. M.J. ELLIOTT: The Government has had this fishery closed for a number of months. It has done so without presenting any real evidence to the community. I am taking a relatively conservative approach at this stage in terms of not knocking out the regulations, only because I acknowledge that, if any fishery collapses due to netting, that would have been an irresponsible thing to have done, and I do not want to be part of that. At the same time, the Government has been grossly irresponsible in not bringing forward all of the evidence upon which it based this decision to the public view. I am not happy that we have to wait another 12 weeks. If the Government does not bring forward the evidence in those 12 weeks, this regulation will be knocked out.

I would ask the Minister in the interim to reassess the regulation and bring forward a new regulation. I have made some suggestions within my speech as to some of the things that can be done. I think we can be more discerning about areas. For instance, I do not think there is any basis for further controls on net fishing outside the Gulf St Vincent or outside the West Coast where there seem to be special situations. If the Minister felt a need for greater controls in those areas in the short term, I think that would be well justified. There is evidence that whiting are being affected over on the West Coast, and there is evidence that fisheries are in decline in the Gulf St Vincent. I would strongly support the Minister in the short term in making sure that we had extra protective measures there.

I do not have as strong a view on professional net fishing at this stage, although I do support the West Coast towns in asking for areas around their towns to be clear of netting to ensure adequate fish populations for the recreational anglers, because the recreational anglers provide a significant income through the tourism they create in the areas. I am not prepared to support the knocking out of the regulations at this stage, but I will do so the moment this Parliament resumes, unless the Government produces more adequate evidence than it has done so far to this Parliament or unless there is a change in the regulations.

The other thing I did not comment on is the fact that this issue is currently before the Legislative Review Committee. It is unfortunate that the parliamentary committee had not made some decision before we go into this long break. I will assume that that reflects that it is overloaded with other matters at this stage and that this matter is seen as being complex. I hope that that is the case. I certainly hope there is no stalling on the matter. I would ask of that committee that, if it is treating this matter seriously, it indicate that it expects some quick action and that it will not simply wait for Parliament to resume. I recognise that, even if we did knock

out the regulation today, the Minister could wheel it straight back in again tomorrow.

The Hon. R.D. LAWSON: The honourable member is correct to say that the regulation which is the subject of this motion is in fact the subject of an inquiry presently being conducted by the Legislative Review Committee. On behalf of that committee, I have moved disallowance of the regulation for the purpose of holding the position. The committee has heard evidence from a number of interested persons from various parts of the State. It has also heard evidence from the officers of the Fisheries Department. The committee has scheduled an out of session meeting for next week for the purpose of finalising an extensive report which is being drafted on this subject. I cannot promise the Council that the committee will be able to reach a unanimous conclusion next week, but I can assure the honourable member and the Chamber that the members of the committee are working for the purpose of producing a report which will be of benefit to anybody interested in this subject.

The Hon. R.R. Roberts interjecting:

The Hon. R.D. LAWSON: The Hon. Ron Roberts suggests that the Legislative Review Committee has been delaying this inquiry. Nothing could be further from the truth. It is not easy to get witnesses to come from the four corners of the State to give evidence on this matter. They have come at their convenience, not at the convenience of the committee, and certainly not at the behest of the Minister. There has been no attempt to delay this matter; in fact, the committee is proceeding with this inquiry with all due expedition, bearing in mind that it has obligations to consider many other regulations and it also has other ongoing inquiries.

The honourable member mentioned that there has been a Netting Review Committee, and the Netting Review Committee has published two quite extensive reports. It is a pity that the Hon. Mr Elliott did not mention in any greater detail the contents of those reports. He suggested that recreational netting does not affect the King George whiting catch. However, it is a notorious fact—and I do not rely on any evidence given to the Legislative Review Committee—that in 1987 a Dr Keith Jones conducted a survey, and he concluded that:

> Although King George whiting was not a major target species for recreational netters, the catch rate of that species in recreational nets was double that of the catch rates achieved by recreational anglers fishing specifically for King George whiting by line.

According to that study, King George whiting was the fourth most abundant species in the recreational net catch. It is not correct to say, as the Hon. Mr Elliott suggests, that King George whiting stocks are not being pressured by the continued practice of recreational netting. The Hon. Mr Elliott alleges—correctly—that there should be caution in relation to fishing regulations generally, and caution should be exercised with regard to the exploitation of our fishing resources. All members of the House should support that proposition. Caution dictates that the House should wait until the Legislative Review Committee has concluded its deliberations and published a report for the benefit of members. I am gratified to see that the Hon. Mr Elliott is not seeking to rush this matter forward tonight.

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

SELECT COMMITTEE ON OUTSOURCING FUNCTIONS UNDERTAKEN BY EWS DEPARTMENT

The Hon. L.H. DAVIS: I move:

That the committee be permitted to sit during the sittings of the Council this day.

Motion carried.

BENLATE

Adjourned debate on motion of Hon. M.J. Elliott:

That the Legislative Council draws to the attention of the South Australian Government the emerging scientific and other information in relation to the fungicide, Benlate.

(Continued from 22 November. Page 530.)

The Hon. M.J. ELLIOTT: I rise to close the debate. I do not intend to speak at length, but it is really a way of getting it off the Notice Paper now that there has been an opportunity for various members of this place to comment. I examined the contribution of the Hon. Trevor Griffin. He commented that the evidence I brought forward was something that the Department of Primary Industries already had. I can tell this Council that I do not believe that it did have most of that information I brought forward last time, because I had been involved in freedom of information requests and, from what I could see, the information held by the Department of Primary Industries was frighteningly thin.

Much of what I brought back was evidence that it had not previously compiled. It is most disappointing that the Department of Primary Industries did not set out to gather the information that I had to get. In fact, early on I challenged the department to send someone to the United States to take a very close look at the issue and to gather appropriate information. It was not prepared to take up that challenge. For the Hon. Trevor Griffin to say now that the information that I brought back was something that it had is not a reflection of the truth. Other than that, I do not want to make any further comment.

The Government did not respond to most of the information that I produced. It ran a Dupont line to some extent. It said that because Dupont was not found to be guilty in a court case in Florida that exonerated it. That is the argument that Dupont has been running. Dupont conveniently neglects to mention all the cases that have gone to court that it has lost and the mammoth number of cases that it has settled out of court. Other than running a few fairly standard arguments that Dupont included in a letter which it circulated to all members of this place, the Government did not address in any meaningful way the issues that I raised, and that is disappointing. I was hoping for something better. One hopes that when a debate involves a great deal of detailed research, it will be treated seriously. I believe that the Opposition treated it seriously, but it did not have access to facilities to respond in great depth. However, the Government had access and chose not to respond. That is disappointing.

Motion carried.

STATUTES AMENDMENT (RACIAL VILIFICATION) BILL

Adjourned debate on second reading.

(Continued from 27 September. Page 41.)

The Hon. K.T. GRIFFIN (Attorney-General): I understand that the Opposition wants to have a vote on this Bill. It can have a vote if it wishes, but the Bill is not going anywhere in the House of Assembly because the Government has introduced its own Bill. That is the Bill that the Government will be preferring and to which it will be giving priority in the House of Assembly when the Parliament resumes on 6 February. I make no observation on the merits of this Bill, except to signal that, if it is likely to be passed, that will be the end of it after it gets to the House of Assembly. I merely draw attention to the fact that a Bill in identical terms has been introduced into the House of Assembly by the Hon. Mr Rann. It may be that there is some sort of competition to determine which member of the Labor Party can get their Bill up first or get it debated in a particular House. All along it has been known that the Government would be introducing a Bill and that that Bill would be given priority, at least in the House of Assembly.

The Hon. R.D. LAWSON: At the outset of this session Her Excellency the Governor in her speech announced that the Government would be introducing a measure on racial vilification. The Government has steadfastly maintained that that Bill would be introduced, and it was introduced in another place yesterday. It seems to me that this attempt to have this measure brought forward at this time is a political stunt.

Members interjecting:

The Hon. R.D. LAWSON: In my view, it is a political stunt. It is a piece of attempted political one-upmanship. We would have hoped for a bipartisan approach to a sensitive issue such as this. Liberal Governments over the years have a proud record in ethic and multicultural affairs in this country. It was under a Federal Liberal Government, the Holt Government in 1966, that the White Australia Policy was abolished. It was a Liberal Government that brought forward the referendum which led to the constitutional recognition of Aboriginal people. It was a Liberal Government that established the Institute of Multicultural Affairs. It was a Liberal Government that established SBS television. It was the Liberal Party that welcomed the first boat people to Australia against heavy opposition from the unions, led by Mr Hawke, and the Australian Labor Party. The Liberal Party is proud of its achievements in this area and I could go on with a long catalogue.

Members interjecting:

The PRESIDENT: Order!

The Hon. R.D. LAWSON: The Bill that was introduced in this House by the Hon. Mario Feleppa on the last day of his membership of this House was, no doubt, a significant symbolic gesture by that member who did have a great interest in these matters. An identical Bill was subsequently introduced in another place by the Leader of the Opposition. Those Bills are based almost word for word upon provisions in New South Wales' legislation. The legislation introduced by the Government yesterday in the House of Assembly makes a number of significant improvements on the measures proposed by the Opposition.

At this stage I do not propose to go through the Bill line by line. Both the Government measure and the Opposition measure do create the offence of racial vilification. No doubt, that part of the Opposition Bill will find acceptance generally, just as the Opposition Bills limit the proposed offence to public acts which incite racial hatred towards a person or group on the grounds of race by threatening physical harm or harm to the property of another on racial grounds.

The Hon. G. Weatherill: What is wrong with that?

The Hon. R.D. LAWSON: There is nothing wrong with that. The Government Bill contains similar provisions. They are provisions which have been adopted elsewhere in this country. They are provisions that were promulgated by the Federal Coalition in a discussion draft Bill in Canberra and discussed over many months. There is nothing wrong with those provisions. However, the maximum penalties allowed in the Opposition Bill are, in our view, too light. They provide for a fine of $10 000 for a company and $5 000 or six months' imprisonment for an individual. We do not regard those penalties as appropriate in the circumstances. Ours are substantially higher: up to three years' imprisonment for a racially based threat to person or property. In our view, it is entirely appropriate that there be a significant penalty for this offence.

The Hon. Anne Levy: Well, move an amendment.

The Hon. R.D. LAWSON: Why move an amendment? There are other provisions in your Bill which are substantially improved upon by the Government Bill. In response to the interjection, 'Why not move an amendment?', I would say that members opposite can move an amendment to the Government's Bill. They know that this Bill has absolutely no chance of being passed.

The Hon. Anne Levy: You held me here for two months and you have not spoken on it.

The Hon. R.D. LAWSON: We have been here preparing a Bill that will be acceptable to the South Australian community, not simply copying laws that were passed in other States years ago. We will not produce a Bill with penalties that are substantially less than the existing penalties for threatening conduct, unlawful threats. The Opposition Bill does not sufficiently recognise the seriousness of the offence and it should be laid aside on that ground. There is no requirement in the Opposition Bill for the consent of the Director of Public Prosecutions to a prosecution under this provision. That, in our view, is a serious defect. There is provision in the Opposition Bill for the Director of Public Prosecutions to be consulted by the Commissioner, but the Director of Public Prosecutions is not given a veto over prosecutions.

The Government regards it as important that the Director of Public Prosecutions do have a discretion in this matter. The court should not be clogged up with what might be regarded in some cases as vexatious prosecutions or private prosecutions. This is an area of great sensitivity, and the Government Bill is a substantial improvement on the Opposition Bill in this regard. The Opposition Bill seeks to amend the Equal Opportunity Act by providing certain forms of civil redress. That is largely a duplication and mere window dressing, because it is a duplication of the Racial Hatred Act, a Federal Act that has given to the Human Rights and Equal Opportunities Commission jurisdiction for civil redress. Those who want to have civil redress in relation to racial vilification already have an opportunity to seek that redress under Federal laws.

The Government Bill, on the other hand, provides an alternative. It provides an opportunity for persons who suffer detriment to make a claim in the ordinary courts by creating a new tort of racial victimisation. This is a substantial improvement upon the rather hackneyed approach that the Opposition has adopted in its measure.

An honourable member interjecting:

The Hon. R.D. LAWSON: There has been no great attempt on the part of the Opposition—

An honourable member interjecting:

The Hon. R.D. LAWSON: You have done absolutely nothing about it. Members opposite have been too busy grandstanding on this, trying to make themselves good fellows and girls with the ethnic community, but it will not wash; they will see through this rather shabby stunt.

Members interjecting:

The Hon. R.D. LAWSON: The interjections of members opposite indicate that they are not much interested in the Government's proposal.

Members interjecting:

The Hon. R.D. LAWSON: You haven't even bothered to study it. It is pretty obvious that members opposite have not even bothered to study it. They come in here to debate a Bill tonight when they have not even bothered to study the Government proposal, a proposal that was foreshadowed in the Governor's speech at the very outset.

Members interjecting:

The Hon. R.D. LAWSON: You haven't even read it. We oppose further debating the Opposition's Statutes Amendment (Racial Vilification) Bill.

The Hon. SANDRA KANCK: The Democrats support the Bill but, I admit, we had to go through quite a deal of soul searching to come to this position. Our Party, surprisingly, does not have a policy with respect to this issue, and I had to consult with Party members. Broadly, the debate centres around freedom of speech versus the rights of minority groups to live without fear of harassment, intimidation and violence. Unfortunately, in order to protect the rights of minority groups and to put in place limitations on displeasing behaviour one inevitably encroaches upon the right to freedom of speech.

Some members would be aware that my inaugural speech to this Parliament was on the need to limit population. As a result of that position, on a number of occasions people have called me racist, from almost the top person down. Back in 1991, when I was working for the Conservation Council and the Federal Government was involved in consultation about immigration numbers, I represented the Conservation Council at a meeting with Gerry Hand and put the strong environment position that Australia needed to limit immigration. On his way out of that meeting, Gerry Hand came up to me and said, *sotto voce*, 'You should be careful of what you say; you will be labelled a racist.' So I have had it said to me by the best of people. In fact, most biologists come into this same category.

Because this accusation has been made against me, I was worried that someone would try to charge me with vilifying people. I must say that I am attracted to the freedom of speech argument. I have considered both issues at length, and I have concluded that it is the responsibility of the State to protect the rights of all its people to live without the fear of violence, and this by far is the greater virtue. Speaking in the Address in Reply debate a couple of months ago, the Hon. Angus Redford referred to the following statement of Voltaire's:

> I disapprove of what you say but will defend to the death your right to say it.

The Party meeting to which I referred looked at that statement. When one looks at the issue, we do not have as much free speech as people tend to think. In a way, I found it a bit of an irony that a lawyer, in the person of Angus Redford, was defending to the death a person's right to say what they wanted to say because, in my years of activism in the environment movement, one of the classic ways of shutting people up and to stop them from protesting against a particular project is to slap a writ on them. I assure members that there is no freedom of speech at that moment, and we do nothing to prevent our slander laws from being enacted.

Another popular saying contrasts with what the Hon. Mr Redford said, that is, people are only free to the extent that they do not encroach upon another person's freedom. Clearly, the incitement of racial hatred causing violence and even death to another person infringes upon their freedom. It could even be argued that the real debate centres around the freedom of some people to say what they like, to whom they like, when they like versus the freedom to live a life without fear. Having said that, I firmly believe in the very important freedom of speech principal, which is the cornerstone of western democracies.

My point is that this principle should not be taken out of context, resulting in some people having more freedom than others. I know of people who have had the windows of their homes broken, brush fences burnt down, roofs stoned and even death threats made because they publicly attacked racist people or behaviour, and their freedom was consequently restricted.

For the most part, the multitude of ethnic Australians have lived in harmony with each other, and close friendships have been forged between people of different cultures. But, despite the overwhelming harmonious relationship between Australians, we are seeing a small but nevertheless disturbing trend in which individuals and groups are inciting racial hatred. Only yesterday morning or the day before it was reported that there was a racist inspired murder in Sydney.

I view this legislation as being symbolic. We will not be able to prevent the incitement of racial hatred in the first place, but it is a point of principle that we have this legislation. Given that we are seeing a spate of incidents inciting racial hatred, Parliament is being forced to take a position of acting on this. I again refer to the comments made by the Hon. Angus Redford on 17 October that there are already laws to prevent such behaviour, and I agree with what he said. Laws exist that could be used in relation to threat to life, unlawful stalking, common assault, aggravated assault, damage to property and offensive behaviour. That being so, it appears that this law is not being applied, and that raises questions as to why. At that time the Hon. Mr Redford suggested that encouraging judges to ensure that harsher penalties are given under existing law might be the way. That may or may not work, but if people are not being charged in the first place under existing laws it will not have any effect whatsoever.

It is clear that, even within that range of legal sanctions, current law cannot effectively deal with such situations as that faced by the member for Reynell, Mrs Julie Greig, when a rally by National Action took place outside her office. The incident frightened her, but she was in a relatively privileged position in society; there was a lot of publicity around it; and probably her life was not at stake. However, it certainly would have been frightening.

It is also interesting to note that in New South Wales, which has legislation on which this legislation was based, I understand that after a year of operation no-one has been prosecuted. It proves my point that passing such legislation is mostly a symbolic action.

I raise another issue, namely, that if Parliament can pass legislation related to racial vilification, why not a Bill to outlaw vilification on the basis of sexuality? The Democrats introduced such a Bill in Federal Parliament. It is a logical extension and one that I would support. If we have a Bill to stop racial hatred, we should have a similar Bill on the basis of sexuality. It is important that issues such as one that is dear to my heart—population, but also immigration and multiculturalism—must continue to be able to be openly debated in our society without fear.

There is no doubt that some people support increasing Australia's population by increasing immigration. Some of those people will continue wrongfully to accuse me of being a racist, but I am confident, having looked at this legislation, that my right to argue my viewpoint on that will still remain. I would be interested to have some verification of that when the Opposition sums up on this. The High Court has said that there is an implied freedom of speech in the Australian Constitution, so it may well be that the issue of the two principles will ultimately be decided by the judges.

Finally, the Democrats will support the Bill. We believe it will be mostly symbolic. We note that we have laws that in the main could be used to curb it, but they are not being used or are ineffective, and this legislation provides an important message to the community that the incitement of racial hatred in this society will not be tolerated.

The Hon. P. NOCELLA: I rise to speak on legislation that is designed to deal with situations that arise from acts perpetrated by people in our midst who wish to offend, humiliate and vilify fellow South Australians on the basis of race. In my maiden speech in this Chamber last month I said that it was an unfortunate matter of public record that South Australia had gained something of a tarnished reputation in this area, particularly in view of a spate of recent acts of ethnic and religious intolerance. The perpetrators of these acts may well be few in number but they provide an extremely negative role model for our young people as well as inflicting fear and anxiety on those who are most threatened by their actions.

I went on to say that I was delighted that the Leader of the Opposition in another place and my predecessor in this Council had responded to these community concerns by announcing the introduction of a racial vilification Bill designed to impose criminal sanctions on those who seem to be impervious to fines, common fairness, education and conciliation. The deterrent represented by the likelihood of a criminal sentence should act as a much more convincing educative tool. Convictions need not be the end result of this sanction in all cases, as the draft Bill provides the opportunity to bring offending parties face to face with the victims of their attack for the purpose of bringing about a realisation of the end effect of what is all too often an impersonal, cowardly act of ridicule, offence or humiliation directed at a faceless and anonymous victim.

In introducing the legislation on 27 September, the Hon. Mario Feleppa made specific reference to the fact that it closely resembled legislation which has been in force in New South Wales since 1989. In that year, New South Wales became the first Australian jurisdiction to pass legislation making racial vilification unlawful. In contrast to the Federal Act, there was a strong consensus on the issue from all Parties in the Parliament—only one parliamentarian voted against the legislation.

However, the matter that I wish to address specifically is why we need the legislation. We need it to protect the dignity and security of potential victims of acts or advocacy of national, racial and religious hatred that constitute incitement to discrimination, hostility and violence. We need it to prevent emotional damage caused by words which may be of significance or even great social and psychological consequence leading to feelings of humiliation, degradation and a sense of not belonging, with possible negative impacts on the individual's self worth and sense of acceptance.

Because of its normative power, the legislation is bound to have a strong educative effect, signalling a refusal to tolerate denigration of people on the basis of race. We must not underestimate the great symbolic and normative power that a clear legislative expression can convey regarding the community disapproval of certain behaviour. While acknowledging that attitudes are not likely to change instantly simply because a law is passed, it is also true that laws can change attitudes over time and that it is not necessary that an overall attitudinal change has to precede a change in the law.

The educative potential of the law has been demonstrated in relation to other areas such as, for example, sexual harassment. The dual legislative and educative role has enabled a much clearer line to be drawn between what is acceptable and what is unacceptable behaviour. While naturally legislation alone cannot change attitudes, it can and does modify behaviour. Proponents of the legislation like me are acutely aware of the delicate balance that must be struck in this area between the right to freedom of speech and the equally compelling rights of equality, security and dignity. But the difficulty of striking a balance does not mean simply that legislation is inappropriate or unwarranted. The debate has also become at times confused because racial vilification is the umbrella term used to describe a range of behaviours, from threats of violence, intimidation or harassment based on race, to racially biased reporting and the use of offensive stereotypes in various parts of the mass media.

This Bill comes in two parts, given that it amends two separate Acts. The first part is an amendment to the Criminal Law Consolidation Act 1935, dealing with penalties for serious racial vilification. It is, of course, vital that behaviour which involves physical harm or threats of physical harm be met with the full force of the law. The emphasis of the Bill, however, lies in the second part, that which amends the Equal Opportunity Act 1984, which Act provides for the conciliation of complaints of racial discrimination and vilification. Acquiescence with this law will therefore be more by persuasion than by threat of punishment. In fact, the inclusion of the vilification provision in the anti-discrimination legislation clearly implies that considerable weight has been given to the fact that legislation is a formulation of clear community standards which can positively influence behaviour.

The inclusion in the Bill of the mechanism of conciliation reflects the faith that has been placed in the educative potential of the respondent having to confront the complainant and be educated in the fact that such conduct is unacceptable. Resolution of disputes through conciliation rather than by reliance upon punitive damages encourages the educative, preventive aspects of the legislation to moderate social behaviour. Experiences interstate demonstrate the efficacy of racial vilification legislation. In New South Wales the Department of School Education reported that its efforts to combat racism were enhanced considerably by its ability to

point to the law in setting both a community and a legal standard.

There is an urgent need for this legislation. Defamation law is inadequate in this instance, because it does not permit group defamation. It applies only to individuals and bodies with legal personality, such as companies, not to ethnic groups. Although it is true that there are some laws which indirectly cover some of the ways in which racial vilification is expressed, they do not distinguish between actions which are harmful for very different reasons. The law needs to recognise that far greater harm is caused by many racially motivated criminal acts than by similar acts with no racist motivation.

Racist violence, harassment and graffiti create fear, insecurity and a sense of not belonging for a whole group of people at once. While it would seem obvious that there is a world of difference between scribbling your name on a telephone booth and scrawling racist slogans on a place of worship, the law currently treats both acts in the same way. Violence targeted at all groups rather than individuals has widespread repercussions beyond the attack on the individuals. Severe complaints of racist violence may create a climate where communities are afraid to be associated with people belonging to an ethnic minority, as happened in Western Australia several years ago. This Bill is about giving power to those without it. It is about reversing the inferior status conferred on historically disadvantaged groups. A law against racial vilification can reassure the victims that they have the support of the community and encourage them to report acts or threats of violence.

One of the significant findings which emerged during the course of the national inquiry into racist violence was that many people who had been the victims of racist violence and harassment were reluctant to discuss their experiences or report them to police, social workers or other public officials because they feared retaliatory attacks or because they did not believe that anyone could or would help them. This Bill will send a clear message to South Australians that racist violence and harassment will not be tolerated. There has been entrenched criticism of the Bill from the media and some civil liberty organisations, primarily on the basis that the Bill impairs the right to freedom of speech. And yet, free speech is not an absolute right in any democracy.

The highest courts in Canada and many European countries have held restrictions on racist speech to be reasonable and necessary exceptions to an expressed constitutional right to free speech. In this country we currently have laws dealing with defamation, blasphemy, copyright, obscenity, incitement, public order, official secrecy, contempt of court, contempt of Parliament, censorship, sedition and consumer protection which recognise that there are countervailing interests that must take precedence over freedom of speech in some circumstances. The proposed legislation has broadly drafted exemptions. I do not hold any fears that performances of Shakespeare's plays will be banned or that talkback radio commentators will suddenly be gagged.

The law will not suppress discussion of issues of legitimate public interest which should be openly debated, such as immigration policy, multiculturalism, inter-communal relations or the politics of any minority. Many countries have race hatred laws, including Canada, the United Kingdom, New Zealand, Belgium, Austria, Denmark, Norway, Sweden, the Netherlands, Italy, Germany and France. New South Wales has had racial vilification for more than five years and yet no-one is arguing that free speech has been appreciably curtailed in that State. In this Parliament in a tripartisan effort, if this Parliament gives its support to this legislation as occurred in New South Wales, it will send an unambiguous and coherent message that the South Australian community does not tolerate racists. I commend the Bill.

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

[Sitting suspended from 1.41 to 11 a.m.]

SUMMARY OFFENCES (OVERCROWDING AT PUBLIC VENUES) AMENDMENT BILL

Returned from the House of Assembly without amendment.

WATER RESOURCES (IMPOSITION OF LEVIES) AMENDMENT BILL

The House of Assembly intimated that it had agreed to the Legislative Council's suggested amendments and that it had amended the Bill accordingly.

SOUTH AUSTRALIAN HOUSING TRUST BILL

Adjourned debate in Committee (resumed on motion).

(Continued from page 729.)

The Hon. T.G. ROBERTS: During the break, I have had time to reconsider my position. The Opposition will not support the Democrats' amendment.

The Hon. SANDRA KANCK: I indicate my great disappointment that the Opposition has caved in on something as important as this which would bring into the Housing Trust part of the social justice obligations. I expected more of the Opposition.

The Hon. T.G. ROBERTS: I sought clarification during the break, and it was explained to me that the clause relates to internal management operations, that it is no broader than that, and that the obligations and objectives of the Act are spelt out in acceptable detail in other amendments and clauses.

Amendment negatived; clause as amended passed.

Clauses 17 to 22 passed.

Clause 23—'Transfer of Property, etc.'

The Hon. SANDRA KANCK: I move:

Page 10, line 26—After 'However' insert:

—

(a) the Minister must not act under subsection (1)(b) unless he or she has first given, by notice in the *Gazette*, preliminary notice of the proposed transfer at least two months before the publication of the relevant notice under that subsection; and

(b) [The remainder of subclause (3) becomes paragraph (b)].

This is simply another process of the accountability of the Minister being built into the Bill.

The Hon. T.G. ROBERTS: The Opposition supports the Democrats' amendment.

The Hon. DIANA LAIDLAW: The Government supports the amendment.

Amendment carried; clause as amended passed.

Clause 24 passed.

Clause 25—'Tax and other liabilities.'

The Hon. DIANA LAIDLAW: I move:

Page 11, line 11—Leave out 'all rates, duties, taxes and imposts, and to assume all other liabilities and duties,' and insert 'all or

specified rates, duties, taxes and imposts, and to assume other liabilities and duties (either generally or of a specified kind),'.

There is a series of amendments to deal with this matter. These amendments have been prompted by Crown Law advice that has been received only in the past few days. The Crown Solicitor has been preparing advice on the liability of the Treasurer to require various corporations to pay State taxes and local government rates under the tax equivalence provisions that now appear in various Acts. The tax equivalence provisions in the South Australian Housing Trust Bill 1995 are modelled on comparable provisions in the Housing and Urban Development (Administrative Arrangements) Act 1995. Consideration of these provisions by the Crown Solicitor has identified a technical problem with the Housing & Urban Development (Administrative Arrangements) Act and therefore the South Australian Housing Trust Bill in that the drafting does not give the Treasurer the option to require a statutory corporation or the South Australian Housing Trust to pay State taxes but not to pay local government rates to councils and instead to pay such amounts into the Consolidated Account.

The relevant provision of the South Australian Housing Trust Bill is clause 25, which is the one we are debating at present. Subclause (1) provides that the Treasurer may require the South Australian Housing Trust to pay all rates, duties, taxes and imposts, and to assume all other liabilities and duties under State law as if the South Australian Housing Trust were a public company. Crown Law advice is that, if the Treasurer makes a requirement under subclause (1), the requirement must include all items under the subclause, including council rates. Thus, it would not be possible for the Treasurer to make a requirement in respect of State taxes but not local government rates. This would also mean that the Treasurer could not require the corporation to pay State taxes to the State and the equivalents of council rates into the Consolidated Account without also giving the effect of requiring the payment of council rates to the relevant councils. This consequence was never intended and indeed, because of a slightly different form of words under the Public Corporations Act, it is not a problem under that Act for public corporations.

The following explanation relates to a consequential amendment, but I will deal with it at this time. The Crown Solicitor also considers that subclause (4) should be deleted, its being a provision that appears in the Public Corporations Act. He points out that subclause (4) implies that the South Australian Housing Trust might have some liability to a council apart from section 25. This is not the case by virtue of the provisions of the Local Government Act 1934, especially section 888. The subclause therefore has no work to do and is thus misleading. The same cannot be said for the equivalent provision in the Public Corporations Act, which can have an area of operation in cases where the Act may contain an obligation to pay council rates that operates notwithstanding the Local Government Act.

This set of amendments therefore addresses these issues. Consequential amendments are also proposed for the Housing and Urban Development (Administrative Arrangements) Act. In summary, the amendments will provide greater consistency with the Public Corporations Act and allow the Treasurer to impose, in due course, an appropriate tax equivalent scheme.

The Hon. T.G. ROBERTS: The Minister puts a very convincing argument, and the Opposition supports the Government's position.

Amendment carried.

The Hon. DIANA LAIDLAW: I move:

Page 11, line 15—After 'in effect to' insert 'either (or both) of the following'.

This is a consequential amendment.

Amendment carried.

The Hon. DIANA LAIDLAW: I move:

Page 11, lines 25 and 26—Leave out subclause (4).

This is not necessarily consequential, but I did explain earlier the Crown Solicitor's opinion in terms of deleting subclause (4).

Amendment carried; clause as amended passed.

Clause 26—'Dividends.'

The Hon. SANDRA KANCK: I move:

Page 12, lines 9 to 13—Leave out subclause (6) and substitute new subclause as follows:

(6) If the Minister receives an amount from SAHT under this section, the amount must be applied towards retiring debt associated with the provision of public housing.

This is an amendment that the Government would actually welcome because it provides that, if the Housing Trust has that money available, it will stay within the Housing Trust. It is guaranteeing money to the Minister's portfolio, and not many Ministers have the guarantee that money that might be made stays within their portfolio. I should have thought that the Minister would welcome that.

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

Page 12, lines 9 to 13—Leave out subclause (6) and insert new subclause as follows:—

(6) If the Minister receives an amount from SAHT under this section, the amount must be applied towards a purpose or purposes associated with the provision of housing within the State.

I indicate that our amendment is probably a little more prescriptive, but it is also more general. It is prescriptive in regard to purposes associated with the provision of housing within this State, but it could include a retiring debt if that is to be a part of best practice in relation to acquiring more stock. Although it is more prescriptive in its purpose, it allows more flexibility for its operation.

The Hon. DIANA LAIDLAW: That explanation is almost deserving of being sent to Tony Love, but I would not do that to the honourable member. Notwithstanding the explanation, the Government supports the amendment moved by the Opposition.

The Hon. Sandra Kanck's amendment negatived; the Hon. T.G. Roberts's amendment carried; clause as amended passed.

Clause 27 passed.

The Hon. SANDRA KANCK:

Clause 28—'Objectives.'

The Hon. SANDRA KANCK: I move:

Page 13, after line 2—Insert:

(5) The Minister must, within 12 sitting days after a statement is prepared or amended under subsection (1) or (3), have copies of the statement, or the statement in its amended form, as the case may be, laid before both Houses of Parliament.

This is a new subclause (5) which refers to subclauses (1) and (3) and which is aimed at greater ministerial accountability. Subclause (1) gives the Minister the power to prepare a statement that sets out the objectives, targets and goals for the South Australian Housing Trust. My new subclause would require that when that statement was prepared it would have to be laid before both Houses of Parliament. Subclause (3), which allows the Minister to amend that statement, also

requires that in its amended form it would be tabled before both Houses of Parliament. Objectives, targets and goals of the South Australian Housing Trust are very important, particularly for the consumers of the service, so that they know what they are working with. They must be clearly on the public record, and having them tabled in the Parliament is one of those public ways.

The Hon. T.G. ROBERTS: The Opposition does not support this amendment, only on the basis that other reporting requirements within the Bill appear to be satisfactory.

The Hon. DIANA LAIDLAW: The Government does not support the amendment.

Amendment negatived; clause passed.

Clause 29 passed.

New clause 29A—'Code of practice and charter.'

The Hon. SANDRA KANCK: I move:

Page 13, after line 17—Insert new clause as follows:
Code of practice and charter
29A. (1) SAHT must prepare—
(a) a code of practice; and
(b) a charter.
(2) The code of practice must incorporate a statement of the rights and responsibilities of SAHT as the provider of public housing, and a statement of the rights and liabilities of persons who occupy public housing provided by SAHT.
(3) The charter must incorporate a statement of the standards and procedures that will govern SAHT's relationship with its clients.
(4) The code of practice and charter must be prepared after consultation with the Minister and housing consumer groups nominated by the Minister.
(5) SAHT may, with the approval of the Minister, amend the code of practice or charter at any time.
(6) On the code of practice or charter, or an amendment to the code of practice or charter, coming into force, the Minister must, within 12 sitting days, have copies of the code of practice or charter, or the code of practice or charter in its amended form, as the case may be, laid before both Houses of Parliament.

This new clause requires the Housing Trust to prepare, according to the draft guidelines of the Commonwealth- State Housing agreement, first a code of practice and, secondly, a charter. My amendment actually gives some details as to what that code of practice should include, and the amendment itself states that. The code of practice must incorporate a statement of the rights and responsibilities of the trust as a provider of public housing and a statement of the rights and liabilities of persons who occupy public housing. That is a very reasonable thing to expect so that each side of the agreement in what is essentially a contract knows what it can expect of the other.

In regard to the charter, I want that to incorporate a statement of the standards and procedures that will govern the trust's relationship with its clients. That is fairly normal now within business. Then, having put those into some form of writing, the code of practice and the charter have to be tabled in Parliament again. I believe that in terms of the Commonwealth-State Housing Agreement this fits in exactly with what is being asked of the State Government.

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

Page 13, after line 17—Insert new clause as follows:
'Code of practice and charter
29A. (1) SAHT must prepare—
(a) code of practice; and
(b) a charter.
(2) The code of practice and charter must conform with any requirements of a current Commonwealth/State Housing Agreement but otherwise the content and form of the code of practice and charter will be determined by SAHT after consultation with the Minister and housing consumer groups nominated by the Minister.
(3) SAHT may, with the approval of the Minister, amend the code of practice or charter at any time.
(4) On the code of practice or charter, or an amendment to the code of practice or charter, coming into force, the Minister must, within 12 sitting days, have copies of the code of practice or charter, or the code of practice or charter in its amended form, as the case may be, laid before both Houses of Parliament.'

The Hon. DIANA LAIDLAW: I indicate to the honourable member that his amendment is far preferable to the Government. We prefer the Hon. Mr Roberts's amendment for very much the same reasons that we argued last night in terms of the draft Commonwealth-State Housing Agreement excerpts, which were proposed by the Democrats and which were passed earlier under the functions provision of the Bill. The Government is pleased that the Labor Party has given further consideration to this matter.

The Hon. SANDRA KANCK: My observation about the Opposition's amendment, which will obviously be carried, is that it is much more vague and, to use the magic word of the moment, less prescriptive than the Democrat amendment. I am disappointed that the Opposition has gone for the more vague and less prescriptive wording. While I acknowledge that having this wording is better than nothing, and that it will improve the Bill, in some ways I believe that the Opposition is not meeting its responsibilities to the clients of the Housing Trust in taking this watered down approach. They will have to explain to the Housing Trust Tenants Association and similar groups why they have done it.

I have made the attempt to put in these things, *a la* the draft guidelines, precisely because we could have a Liberal Federal Government after the next election, which I am sure the Hon. Mr Roberts is well aware of, and under those circumstances we do not know which if any of the draft agreements that have been reached so far under the Commonwealth-State Housing Agreement will stand. My prediction is that, if we have a Liberal Government, a lot of it will be watered down, and this is an opportunity for the Opposition to make sure that at least the South Australian side of these agreements sets an example for the rest of Australia. I express my disappointment that the Opposition is taking this line.

The Hon. T.G. ROBERTS: I am not taking any bets at all on the outcome of the Federal election.

The Hon. R.D. Lawson: Now that Graeme Campbell is standing for the Democrats.

The Hon. T.G. ROBERTS: I am sure that the Western Australian branch of the Liberal Party can match Graeme's activities. Crichton-Browne has not made any statements for a long time.

The Hon. Diana Laidlaw interjecting:

The Hon. T.G. ROBERTS: That is right. It might even motivate the Democrats to give us more preferences to make sure that a Federal Labor Government is returned. Perhaps the analogy is wrong for this Bill. 'Watering down' is not the most applicable expression. It would be better to say that this provides a foundation, as it is the Housing Trust Bill. The Government's position is spelt out. It perhaps is not as specific as the provisions in new clause 29A of the Democrats' proposition, but it allows for community consultation so that the Government can talk to people to make sure that the arrangements it puts in place through a charter or a code of practice are negotiated, and there is an obligation to do that. It places the responsibility on community groups and organisations to play a part in building up a relationship with the Government so that it gets the parameters right.

The Hon. DIANA LAIDLAW: When the Commonwealth-State Housing Agreement is signed, all signatories are bound for five years.

The Hon. Sandra Kanck: When is it going to be signed?

The Hon. DIANA LAIDLAW: Within one year.

The Hon. Sandra Kanck: And we could have a Liberal Government.

The Hon. DIANA LAIDLAW: Yes, that's true; that is good news! I do not want to be distracted, because we have a conference to go back to in a few minutes. It will be a requirement that the Commonwealth-State Housing Agreement be signed by all parties. It is under review at the moment. It is inappropriate to incorporate draft revisions in an Act which will mark the operations of the Housing Trust for the coming year and beyond.

The Hon. Sandra Kanck's new clause negatived; the Hon. Terry Roberts's new clause inserted.

Clause 30—'Annual Report.'

The Hon. SANDRA KANCK: I move:

Page 13, line 22—Leave out subclause (2) and substitute new subclause as follows:

(2) The report must—

(a) incorporate the audited accounts and financial statements of SAHT; and

(b) incorporate the code of practice and charter that applies to SAHT, as in force at the end of the relevant financial year; and

(c) include a specific report on the social outcomes that SAHT considers it has achieved during the relevant financial year.

As currently worded in the Bill, subclause (2) simply provides:

(2) The report must incorporate the audited accounts and financial statements of SAHT.

I am enlarging the provision with two extra points. First, the code of practice and the charter that we have just agreed should be put together—should be printed in that report. So, it will be available for people to look at the bulk of the report and to see whether things match up against that. Secondly, I seek to incorporate that the report should include specific information about the social outcomes that the Housing Trust has been able to achieve during that relevant financial year. Again, as I have been attempting throughout to try to make sure that the Housing Trust meets its community service obligations, it is very important that in its annual report there must be something about whether or not it has been achieving any of those.

The Hon. DIANA LAIDLAW: The Government opposes the amendment. I argued on an earlier occasion that it is important to keep the requirements between various agencies consistent. We were talking about public corporations: the Housing and Urban Development (Administrative Arrangements) Act and the community housing legislation. It would be unfortunate to depart from the consistencies that Parliament has sought in these related Acts over the past two years.

The Hon. T.G. ROBERTS: The Opposition will not support the Democrats' amendment. We believe that the annual report and the Auditor-General's Report are a satisfactory basis for reporting and that the triennial review will address the matters being raised by the proposed amendment. A lot of glossies that come from departments at the end of the year are perhaps not the best way to gauge whether the social justice obligations are being met. The best way is for tenants and members of Parliament not to have any complaints about the application and operation of the Act in the real world.

The Hon. SANDRA KANCK: Again, I express my disappointment. Comparing this aspect of the Housing Trust to the Housing and Urban Development (Administrative Arrangements) Act and the community housing legislation is not a valid comparison, because as entities they are attempting to achieve very different things. Given that within the Housing Trust we are dealing with people who tend to be middle income down to low income and poverty stricken people, the social outcomes are extremely important. I do not believe that the triennial review that the Opposition will be proposing later will show things up quickly enough, whereas the annual report has the capacity to bring it to public notice at least once a year. All I can do is express my extreme disappointment once again with the Opposition.

Amendment negatived; clause passed.

Clauses 31 and 32 passed.

Clause 33—'Power to enter land.'

The Hon. SANDRA KANCK: I move:

Page 16, line 7—After 'land' insert '(other than residential property occupied by a tenant of SAHT)'.

From what I can read quickly, I think this anticipates amendments I will move after line 11.

The Hon. DIANA LAIDLAW: We support the amendment.

Amendment carried.

The Hon. SANDRA KANCK: I move:

Page 16—

Line 10—Leave out 'this section' and insert 'subsection (1)'.

After line 11—Insert:

(2a) A person authorised by SAHT may enter residential property occupied by a tenant of SAHT if (and only if)—

(a) the entry is made in an emergency; or

(b) the tenant has been given written notice stating the purpose and specifying the date and time of the proposed entry not less than seven days and not more than 14 days before the entry is made; or

(c) the entry is made at a time previously arranged with the tenant (but not more frequently than once in every four weeks) for the purpose of inspecting the property; or

(d) the entry is made for the purpose of carrying out necessary repairs or maintenance at a reasonable time of which the tenant has been given at least 48 hours written notice; or

(e) the entry is made with the consent of the tenant given at, or immediately before, the time of entry.

These amendments are related to the right of a Housing Trust employee to enter a Housing Trust property. I was very concerned when I compared clause 33 in the Bill with what exists in the Residential Tenancies Act which was dealt with a couple of months ago in this place.

The Hon. Diana Laidlaw: We will support these.

The Hon. SANDRA KANCK: Good. I thought it was very important that the same provisions that apply to ordinary private tenants in the private rental market should apply to tenants of the Housing Trust.

Amendments carried; clause as amended passed.

Clauses 34 to 41 passed.

New clause 41A—'Triennial review.'

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

Page 17, after line 32—Insert new clause as follows:

41A.(1) The Minister must once in every three years cause a report to be prepared on the operations and administration of SAHT.

(2) The report must be prepared by a person who is independent of SAHT.

(3) The Minister must, within 12 sitting days after receiving a report under this section, have copies of the report laid before both Houses of Parliament.

This is one of the reasons we felt the reporting process mechanisms would be adequate in debating the previous clause.

The Hon. SANDRA KANCK: The Democrats will support this amendment, but I must remind the Hon. Mr Roberts that the reason why he did not support my amendment to include in the annual report the code of practice and charter and, specifically, the social outcomes was that he would be moving this amendment and he believed that what he had would be better. I note that his triennial review still gives no obligation on the State Government to include that community service obligation in its report.

The Hon. DIANA LAIDLAW: The Government supports the amendment.

New clause inserted.

Clause 42—'Regulations.'

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

Page 18, lines 7 and 8—Leave out subparagraph (i).

The Hon. DIANA LAIDLAW: I support the amendment.

Amendment carried; clause as amended passed.

Schedule 1—'Repeal and amendments.'

The Hon. DIANA LAIDLAW: I move:

Page 19, after line 29—Insert the following paragraphs:

(ha) by striking out from section 25(1) 'all rates, duties, taxes and imposts, and to assume all other liabilities and duties,' and substituting 'all or specified rates, duties taxes and imposts, and to assume other liabilities and duties (either generally or of a specified kind),';

(hb) by inserting 'either (or both) of the following' after 'in effect to' in section 25(2);

(hc) by striking out from section 25(2)(b) 'in the case of a statutory corporation that would otherwise be exempt from the liability to pay council rates,' and substituting 'council';

(hd) by striking out subsection (4) of section 25;.

This amendment is consequential on the amendments I moved earlier, on the advice of the Crown Solicitor, to clause 25.

Amendment carried; schedule as amended passed.

Schedule 2—'Transitional provisions.'

The Hon. SANDRA KANCK: I move:

Page 21, after line 26—Insert:

Code of practice and charter

2A. SAHT must prepare the code of practice and charter required by section 29A within six months after the commencement of this Act.

This relates to the code of practice and the charter which we have agreed should be prepared by the Housing Trust. This requires that a code of practice and a charter, in whatever form, must be prepared within six months of commencement of the Act. I do not think that it is asking too much that this should be done remembering, of course, that the code of practice and charter can be amended at any time. If it is in a form that is inadequate or embarrassing to the Government, or something like that, the Government can quickly withdraw it and replace it with another. I think six months is a quite reasonable time in which to have it prepared, and then any alterations can occur from there on in.

The Hon. DIANA LAIDLAW: The Government supports the amendment.

Amendment carried; schedule as amended passed.

Title passed.

Bill read a third time and passed.

LOCAL GOVERNMENT (BOUNDARY REFORM) AMENDMENT BILL

At 2.35 p.m. the following recommendations of the conference were reported to the Council:

As to Amendments Nos 1 to 5—That the House of Assembly do not further insist on its disagreement thereto.

As to Amendment No. 6—That the Legislative Council do not further insist on its amendment but makes the following consequential amendments—

Clause 10, page 6, line 9—Leave out 'seven' and insert 'eight';

Clause 10, page 8, lines 22 to 25—Leave out subsections (2) and (3) and insert new subsections as follows:

(2) A quorum of the Board consists of five members (and no business may be transacted at a meeting of the Board unless a quorum is present).

(3) A decision carried by a majority of votes of the members present at a meeting of the Board is a decision of the Board.

(3a) Each member present at a meeting of the Board is entitled to one vote on a matter arising for decision by the Board, and the person presiding at the meeting has, in the event of an equality of votes, a second or casting vote.

And that the House of Assembly agree thereto.

As to Amendments Nos 7 to 19—That the House of Assembly do not further insist on its disagreement thereto.

As to Amendment No. 20—That the Legislative Council do not further insist on its amendment.

As to Amendment No. 21—That the Legislative Council do not further insist on its amendment but makes the following amendment in lieu thereof:

Clause 10, page 9, line 37, page 10, lines 1 to 4—Leave out all words in these lines after 'Part' in line 37.

And that the House of Assembly agree thereto.

As to Amendment No. 22—That the House of Assembly do not further insist on its disagreement thereto:

As to Amendment No. 23—That the Legislative Council do not further insist on its amendment but makes the following amendments in lieu thereof:

Clause 10, page 10, after line 18—Insert new word and paragraph as follows:

and

(c) significant benefits for ratepayers under this Act.

Clause 10, page 10, after line 26—Insert—

(ia) that ratepayers should be able to receive a reduction in their council rates through the implementation of structural reform proposals under this Part;.

And that the House of Assembly agree thereto.

As to Amendments Nos 24 to 39—That the House of Assembly do not further insist on its disagreement thereto.

As to Amendments Nos 40 and 41—That the Legislative Council do not further insist on its amendments.

As to Amendment No. 42—That the House of Assembly do not further insist on its disagreement thereto and that the Legislative Council make the following consequential amendment:

Clause 10, page 18, line 4—After 'community' insert ', including through rate reductions'.

And that the House of Assembly agree thereto.

As to Amendments Nos 43 to 47—That the House of Assembly do not further insist on its disagreement thereto.

As to Amendment No. 48—That the Legislative Council do not further insist on its amendment and makes the following amendment in lieu thereof.

Clause 18, page 19, lines 25 to 38, page 20, lines 1 to 4—Leave out all words in these lines and insert—

Limitation on general rates—1997-98 and 1998-99 financial years

174A.(1) Subject to this section, a council must, in each of the 1997-98 and 1998-1999 financial years, aim to recover from general rates charged on land within the area of the council (in total) an amount that does not exceed the total revenue raised from general rates charged on the same land under this Division for the 1995-96 financial year, adjusted to reflect changes in the Con-

sumer Price Index between the March quarter 1995 and the March quarter 1997.

(2) However—

(a) a council is not required to comply with this section if—

(i) a poll of electors for the relevant area is conducted on the matter; and

(ii) the majority of persons voting at the poll vote in favour of the proposition that the council is not required to comply with this section;

(b) the Governor may, by proclamation, grant a council an exemption from the requirements of this section on the basis that the Governor is satisfied that extenuating circumstances exist that justify the exemption.

And that the House of Assembly agree thereto.

As to Amendment No. 49—That the House of Assembly do not further insist on its disagreement thereto.

Consideration in Committee of the recommendations of the conference.

The Hon. DIANA LAIDLAW: I move:

That the recommendations of the conference be agreed to.

This has been a very big agenda item for the Government, local government and Parliament as a whole. We met in conference for two nights and one and a half days. If I had been asked to speak on this matter at midnight last night, I would have had to say that it was with extreme disappointment that the Bill had failed. However, it is amazing what a little sleep does for everybody. This morning everybody was prepared to look again at issues on which last night we thought there was no room to move. Today it is a different matter.

I am pleased, on behalf of the Government, the conference, Parliament, local government and ratepayers generally that this compromise has been reached. As with any compromise, there will always be members who are disgruntled that one or two areas that they held dear have not been concluded in the fashion that they would like. Certainly some councils and perhaps the business community may not be very happy. However, ratepayers generally will be the winners, and so will the efficiency of local government. There will be big benefits in the longer term for the State as we work through these major reforms to local government boundaries.

At the start of the conference the 49 amendments, which had been passed by this place but which and been disagreed to by the House of Assembly, were addressed. All but 8½ of those amendments were agreed to by the Lower House immediately, and a number of that small package of amendments were consequential, anyway. I will work through these matters now. Amendments 1 to 5, to which the House of Assembly no longer disagrees, relate to ministerial review, the five-year transitional provisions and boundary alterations, in terms of structural reform proposals and polls.

A change has been made to the size of the board. The board will now be increased from seven members to eight. Members will recall that, when the Bill was before this place, the number of appointments that could be made by the Minister was reduced from four to three; that number will now return to the original number of four, but it allows accommodation of the Legislative Council amendment in terms of representation from the UTLC. The Government has agreed to that amendment from this place. The Government had wanted—but we had not been able to realise it in this place—each council in presenting plans to the board for consideration and reform to present both a financial and a management plan.

The Legislative Council had restricted that proposal to a financial plan only, a matter to which the Government took extreme exception. We believe very strongly that the workers in council areas as well as ratepayers would wish to know that reform was undertaken, not on the basis of financial considerations alone but on the basis that councils had considered fully the management arrangements that would apply in future, both through the transitional stage and in terms of their being in the best interests of that local area. We wanted the board to look comprehensively at plans prepared by councils which had been prompted by the board.

Exception was taken by this place, and there was continued resistance for some time in conference, mainly because there was concern that the board should not be involved in initiating management arrangements within councils. That problem has been overcome and we have, throughout the Bill, a number of consequential amendments to amendment number 20 in relation to inclusion now in the Bill of financial and management plans in such instances. We have removed from the function of the board reference to rate reductions. However, we have strengthened, in both the objectives and the principles that apply to the board's deliberations, reference to rate reduction.

This has been an issue of considerable contention for some time, as all members would know. There has been concern that the Parliament should not be involved in determining matters of this financial nature within councils, for instance, determining their rates.

Yet the Government (particularly the House of Assembly) was not prepared to go ahead with amalgamations without making sure that positive financial benefits were passed on to the residential and commercial ratepayers, because they had to see that, through this microeconomic reform and boundary reform, there were major substantial financial benefits to ratepayers. So, the conference has agreed to return the 'objectives' section to 17A, as the Bill was first presented in this place. We have agreed that the objectives of the board should read as follows:

The board should seek to achieve the following objectives through the adoption of appropriate practices and procedures under this part in order to enhance the ability of local government to provide services in an efficient, effective, fair and responsive manner:

(a) a significant reduction in the number of councils in the State; and

(b) a significant reduction in the total cost of providing the services of local government authorities under this Act.

And we now add the third reference to 'and significant benefits for ratepayers under this Act.' The situation essentially is that we have removed reference to real rate reductions from 'functions' but strengthened the references to such matters in the objectives and the principles that are to guide the board in its deliberation. Another big issue, perhaps the biggest issue that taxed all members of the committee, was that in relation to the limitation on general rates. The agreement reached at the conference reads as follows:

Limitation on general rates—1997-98 and 1998-99 financial years

174A(1) Subject to this section, a council must, in each of the 1997-98 and 1998-99 financial years, aim to recover from general rates charged on land within the area of the council (in total) an amount that does not exceed the total revenue raised from general rates charged on the same land under this division for the 1995-96 financial year, adjusted to reflect changes in the Consumer Price Index between the March quarter 1995 and the March quarter 1997.

We go on to outline, as was in the original Bill before this place and as has been reinserted by the conference:

(a) a council is not required to comply with this section if—

(i) a poll of electors for the relevant area is conducted on the matter; and

(ii) the majority of persons voting at the poll vote in favour of the proposition that the council is not required to comply with this section;

We have also added the provision:

(b) the Governor may, by proclamation, grant a council an exemption from the requirements of this section [the reduction in general rates] on the basis that the Governor is satisfied that extenuating circumstances exist that justify the exemption.

That would be a situation such as the Stirling bushfires or something that was right out of the control of the council. At all other times we expect councils to be fully in control of the situation and addressing the issues of amalgamation with a view to rate reductions. We are saying that in 1996-97 there would be no cap on rates and in 1997-98 there would be a cap and that cap would be the 1995-96 rates adjusted for the CPI. In essence, it means that in 1996-97, while there is no cap on rates, any council cannot get out of control in terms of running up its rates because in the following year 1997-98 there is the cap and that cap is the 1995-96 rates adjusted simply for the CPI. If they go wild in 1996-97, they have to make adjustments back the following year to the 1995-96 rates adjusted for the CPI. In the subsequent financial year 1998-99, it was recommended by the conference that the rates be kept at the 1997-98 level, that is, no adjustment for the CPI.

While it took a long time to debate, think and work through this issue, the conference has come to an agreement that we not put in the Bill a specific sum for rate reduction but that we recommend to the House of Assembly this package of capped and non-capped rates adjusted for CPI in various years, which requires considerable discipline by councils in the interests of ratepayers. I indicated that there were certain options where a council would not be required to comply, but I repeat also that, rather than there be any suggestion that the Government has backed down on this or that anybody has gone soft, the principles and the functions of the board to whom all these plans must be referred have been strengthened considerably in terms of the expectations of rate reductions. What we have outlined as the compromise in 174A is that this is the minimum we expect in terms of compliance from councils. Our expectation is more in terms of the reductions that they will realise in the interests of the council areas. Those expectations have been firmed up in terms of the objectives and principles for the board.

This is not a Bill that I initially proposed under our system of Government in this State. Ministers in another place have the pleasure from time to time to deal with other Ministers' Bills. I have the pleasure to represent the Minister for Local Government. I had not anticipated at the time that he would undertake such major Bills as local government and boundary reform and that I would be so enmeshed in some of the controversies that can haunt one in local government areas. Nevertheless, I have thoroughly enjoyed participating in the debate in this place. I have appreciated the cooperation of members in the debate and I thank all members who have served as managers on behalf of the Legislative Council. It has again confirmed to me the value of conferences where all members of all persuasions can sit together and work through issues away from the spotlight. Generally the respect that members of this place have for each other in terms of the issues we confront means that the debate is not always as heated or as personality-based as we often observe in the other place. I thank all honourable members for their participation in the debate on the Bill and in the conference. I recommend to the Council the resolutions arising from the conference.

The Hon. P. HOLLOWAY: I support the motion. Forty-eight hours ago I was not sure whether we would be able to reach an agreement, but we have been able to do so. Like all conference outcomes, this is a compromise. There are parts that, on this side of the House, we do not particularly like, but we had to judge the position as a whole. We recognise that local government reform is one of the most important issues before us at the moment.

Certainly, local government reform is a very difficult issue. I think it would be fair to say at the moment that everyone believes that local government reform should take place, but no-one agrees how it should be done. That was the difficult task we had before us. The most difficult compromise on behalf of the Opposition was the setting of the level of local government rates. We would much prefer that there be absolutely no interference at all, but we were faced with a situation where the high expectations that have been raised in local government to have reform would not be realised unless we addressed that issue.

The compromise that was reached, as the Minister outlined, is that there will be none of the forced reductions in the rates that were earlier being proposed, but that there will be some capping of rates following the successful outcome of the amalgamation discussions and following the ending of the life of the Local Government Boundary Reform Board in 1997. We believe that will achieve some benefits to local government, even though our preferred position would have been that there be absolutely no interference at all, and local government would have been able to set its own rates completely free of interference.

Regarding the whole process in general, the Opposition—the Labor Party—has played its part in reform. If one looks at the history of local government reform over the past few decades, one sees that inevitably local government reform has failed because Oppositions have politicised the issue and preferred scoring political points over achieving genuine reform. We were aware at this time of the responsibility that we had if local government reform was to go ahead.

The outcome that we tried to achieve in this Bill was that the Local Government Reform Board should have the powers necessary to bring about real change in local government but, at the same time, that change should be acceptable to the vast majority of local government, that it should be in accord with proper principles of accountability to the local government community, and that, at the end of the day, it should involve communication with local government through all stages of the process. We have aimed to achieve that and, I believe, to a large measure, we have done so.

I want to mention some of the significant reforms which the Opposition has been able to achieve to improve the accountability process. First, we have achieved a representative from the Trades and Labor Council on the Local Government Reform Board; we believe that is most important and that it will provide an input and some expertise in relation to industrial relations issues, as well as a representative of the workers of local government. We believe that is an important change.

We have always believed that boundary reform should be voluntary and that, before any amalgamation produced by the board should proceed, it should be subject to a poll of

electors. The important amendment which we moved to this Bill and which will stay as a result of the conference is that any poll should be binding if 40 per cent of the electors of the new council areas turn out to vote. We believe that is a very important measure.

Our main objection to the rate setting provisions, as was originally proposed, was that there would have been a one-off 10 per cent cut in rates just before the next election. That would have been made regardless of whether or not councils had been subject to boundary proposals and regardless of the extent of any efficiencies. We always thought that that was a stunt. We are pleased to see that it has gone in that form.

We have argued for, and achieved, some flexibility in relation to achieving the benefits from local government reform. We all want local government reform because it will bring about efficiencies which should flow through to ratepayers. That has now been encapsulated as part of the principles of this Bill. There is no point in having local government reform if we do not achieve any benefits from it. The benefits will vary from area to area and there will be different problems in different areas. Growth councils, for example, will have to meet higher costs than those in more mature areas. We hope, and expect, that as a result of the changes that have been made to the Bill there is now some flexibility in relation to those powers.

I now wish to sum up the changes overall to this Bill. It is now for the Local Government Reform Board to do its job. We believe that we have played our part in providing the board with the quite extensive powers that are needed to achieve genuine reform. I think that we have the best opportunity in many years to achieve genuine local government reform because we have played our part in ensuring that the mechanism to achieve that objective is there. It is now over to the Government and the board to ensure that that comes about. Let us all hope that over the 18 months to two year life of this board—it expires in September 1997—we can achieve some genuine and lasting reform to local government and that that reform results in benefits to the ratepayers of this State. We sincerely trust it will do that, and it is now over to the board. I believe that we have played our part as an Opposition to ensure that the board has the powers to do the job. I commend the motion.

The Hon. M.J. ELLIOTT: The Bill that will leave this place will not be a good piece of legislation, but I believe it will be a significantly better piece of legislation than that which first came into the Parliament. I certainly hope that the Government, before introducing the next amending Bill to the Local Government Act (which I understand will be next year) will take more regard of what local government itself has to say about the issues.

I had an opportunity to attend the AGM of the LGA not that long ago and I spoke with many people there. Motions were carried, and it was quite clear that across local government there was support for reform therein; there was support for a number of the thrusts that were contained within this Bill; but there was unanimous opposition to a couple of components of it and, I think, a great deal of anger that due regard was not being taken of their opinion.

Certainly, I think that the Legislative Council has played its role in ameliorating some of the greater excesses that were in the original Bill, although traces of those still remain. This is still an anti-democratic Bill in some senses. It is possible for a 40 per cent poll to occur, with virtually all the people voting against an amalgamation, and yet the board could force an amalgamation. The Bill would allow that to happen. Unless more than 40 per cent participate, the actual vote in the poll is not worth anything at all.

The Hon. Diana Laidlaw: There is postal voting.

The Hon. M.J. ELLIOTT: That is a fact. At this stage, we do not know how many people will participate in a poll. We do know that if fewer than 40 per cent participate, it does not matter how they vote: the board can do what it likes. This Bill gives a very clear instruction to force amalgamations and to reduce rates. Those instructions are there within this Bill. To that extent it is still anti-democratic.

I personally believe that amalgamations are necessary in a number of cases. I believe that rate reductions are also achievable, but I do believe that for an unelected board to use powers which were not given to it by the voters themselves to stomp upon those people who have been supported by voters is undemocratic. This legislation still allows that to occur, although at least bringing the 50 per cent down to 40 per cent will increase the chances that, if there is significant opposition to an amalgamation, those voices will be heeded.

It is not my intention to cover all the issues but I will focus on just a few of the key ones. On the issue of compulsory reduction in rates, the Government was saying that there needed to be a 10 per cent reduction. It was a stunt: it was for one year only. There was no guarantee of any ongoing benefit from that reduction. It was there for one purpose: it was going to be done in the year immediately before the next State election. What councils did before or after was not involved: they could put the rates up for the next year and have a 10 per cent reduction just for the one year that was necessary. That was what the Government was proposing. The 10 per cent could be quite damaging to the finances of a council, because nothing in this Bill stops councils from going out and increasing their borrowings. Alternatively, they could simply cut back their maintenance programs for a year and add a significant backlog for the following year, when the rates could go up appreciably. That 10 per cent, which was put in there as a compulsory component, was nothing more nor less than a stunt. We know that the opinion polling that was being done by the Government several weeks before the Bill was introduced in Parliament tested how the Government could get it through and whether this offer of 10 per cent for one year would be enough to act as a sweetener so that it could persuade a significant number of back benchers in the Government's own Party who had grave concerns about some aspects of this Bill.

The amendment that has ultimately got up does provide a ceiling, but I think it is a responsible ceiling in that it still gives freedom for councils to respond to their own circumstances. If efficiencies are gained, perhaps councils want to try other options. If councils are carrying a significant debt load, why would they not opt to reduce their debt rather than reduce their rates? That is what the State Government has been doing. It has not been reducing taxes; it has been reducing debt yet, with the 10 per cent you are trying to inject, you are limiting local government's capacity to reduce debt, which some of them might sensibly have chosen to do. Or, if they had a significant maintenance backlog (and the longer you leave things unmaintained, the greater your bill later), they could have tackled that. But you would not have given them even the freedom to use any gains that may have come out of the legislation. You could have made the situation worse. The 10 per cent was also going to come in the same year as the councils would have had to foot the bills

for redundancies and those sorts of things. The first year of amalgamation will have a lot of expenses, and they were supposed to find a 10 per cent reduction in the same year. Again, that was very irresponsible and a stunt. We have put in a ceiling and the only drop that will occur is one year later and will mean simply that there will be no rise in expenditure and no allowance for CPI. That will mean that the ceiling will come down in that year, but at least it will be the year after amalgamation and not the year of amalgamation and it will be nowhere near as severe as the Government was intending to impose. That does not mean that some councils may not drop their rates by 15 or 20 per cent. In fact, some councils will be in that position and some councils will choose to do so and, since they are democratically elected, if they choose to do so, so they should. If they choose to do something else for their electors, they should be free to do that as well.

Governments have tried to use boundary reform and indirectly through the back door try to tackle questions of efficiency within councils. It is a very untidy way of doing it. The tidy way of doing it is it to amend other parts of the Act, in particular section 161. The reporting procedures within local government could be changed to provide benchmarks which voters can look at and use to compare councils with other councils and make their decision about whether they are being given an efficient service and whether they want change. Ultimately, it should have been their decision.

There have been quite a number of smaller amendments which I think have improved the accountability. The board is now required to have public meetings, except under special circumstances. Its minutes are meant to be available for the public and, by opening it up for scrutiny, it is more likely to behave responsibly. There are a number of other smaller amendments which I think have made improvements, but I will not go through those clause by clause at this stage.

The Hon. A.J. REDFORD: I commend the motion and congratulate the Minister on—

The Hon. Sandra Kanck interjecting:

The Hon. A.J. REDFORD: I will get to you in a moment—the hard work that went into the Bill in its current form. The level of consultation with local government adopted by the Minister and the effort that he put in to get to this result is to be commended. It is important that everyone understands that there is in anyone's language a huge political risk associated with local government boundary reform. I know that the Hon. Anne Levy in previous Governments has suffered when she attempted to go down the path of boundary reform. I know that other Ministers have suffered, and in that regard the current Minister and the current Government ought to be congratulated on taking—

The Hon. M.J. Elliott: That's a surprise.

The Hon. A.J. REDFORD: I will get to you in a minute—the tough political decision that was taken. I should go some way in supporting the Hon. Paul Holloway's comments when he said that the two major Parties in this place, which represent some 92 or 93 per cent of South Australia, were single-minded in endeavouring to achieve local government boundary reform. Other than a couple of occasional mischief-making points, the Opposition and the Government were pretty much of the one mind—not so the Australian Democrats. It is like a script. When legislation is first announced we get the pious comments from the Australian Democrats that they are going to oppose this legislation, go to the wall and stop it. As the legislative program progresses through the system—

The Hon. M.J. Elliott interjecting:

The Hon. A.J. REDFORD: I will not comment because it will only go on the record—there is a period of quietness and then we get the usual backflip. We have had it with retail tenancies legislation; we have had it on various issues with WorkCover; we had it with industrial relations; and we have seen it again today. The honourable member made a number of points which should not go unpassed. There seems to be some sort of element in the community which seems to have this view that they know what the backbench is thinking on various issues. I know that the Hon. Michael Elliott has not experienced a backbench, because there is no such thing as a backbench in the Australian Democrats. I know that there was vigorous discussion and that people put their points of view in the Party room and, subsequently, forcefully; but, at the end of the day (with the one exception) this Party supports local government reform and boundary reform. The statement to the effect that there were grave concerns by the backbench somewhat overstates the issue.

The honourable member talked about what our Bill had and the fact that we were going to force a 10 per cent reduction. He gave the impression that that was our position. I remind the Hon. Michael Elliott that in our Bill there was provision for that requirement to be obviated, and that could be done either by the board giving an exemption or by a ratepayer poll. To stand up and make the sorts of comments that he made really misrepresents the position that the Government had at the time. But I must say that we are used to that. We also heard him say that the Government should not have had the 50 per cent threshold, and he took some credit for its being dropped back to 40 per cent. At the end of the day not much will turn on whether it is 40 or 50 per cent. I remind members that it was our initiative that there be postal voting. In certain areas, particularly on the West Coast, postal voting is the normal way in which council elections are conducted. I am told by my colleague the Hon. Carolyn Schaefer that the Kimba council is one where they use postal voting, and the normal return, in a voluntary voting situation, is some 70 per cent. At the end of the day, I suspect that, whether it be 40 or 50 per cent is neither here nor there when one conducts these polls through a postal system.

At the end of the day, the Government has put the onus on those who are antagonistic or negative towards the restructuring of local government to justify their position. In past attempts people who wanted the change have had the onus put on them and, as the Hon. Anne Levy will attest, that is an extraordinarily difficult onus to satisfy. It takes only one or two people to run a savagely negative campaign—rightly or wrongly—and all the best council amalgamations are laid asunder. In this Bill the focus is different. It is for those who are antagonistic to boundary changes to justify that position to their electorate and, if they cannot justify that position, then the boundary amalgamations will go ahead.

Finally, the Hon. Michael Elliott said that the Government was endeavouring to interfere with rate revenue-raising discretions on the part of councils. I know that the Australian Labor Party was also very concerned about that. I know, also, that the Australian Labor Party, as was indicated to me, passed a resolution at its recent State council meeting to the effect that State Governments ought not interfere in that area. I hope that the Australian Labor Party might even consider, at next year's conference, passing a similar resolution so far as the Federal Government is concerned regarding State

Governments, because the level of interference that State Governments get from the Federal Government is far greater than anything that was envisaged in this legislation.

Notwithstanding that very important principle that was passed at the Labor Party convention this year, it is pleasing to see that they are not completely dictated to by those faceless people at the conference. In fact, they did ultimately agree that the State Government could interfere with the setting of rates—at least by putting a ceiling on the rate fixing level. Finally, the Hon. Michael Elliott says that there was unanimous opposition to the Government's proposal to reduce rates by 10 per cent. I can say to the Hon. Michael Elliott that I talked to an extraordinarily large number of ratepayers—and, at the end of the day, they are the important people—

The Hon. M.J. Elliott interjecting:

The Hon. A.J. REDFORD: The ratepayers, not the councils. It is the actual ratepayers; the councils are there to serve them. It was the ratepayers who were saying—be it through polling, letters, correspondence, statements or conversations—that they wanted their rates reduced. It is time the Hon. Michael Elliott looked at what local government is for: it is for the benefit of ratepayers. Local government is not there for the benefit of local government. This Government endeavoured to look at the position from the point of view of ratepayers, and we discovered that there was strong support for rate reductions.

The Hon. T.G. Cameron: Political grandstanding, that's all you're on about.

Members interjecting:

The CHAIRMAN: Order! The Hon. Mr Cameron comes wandering into the Chamber and disrupts it immediately. I ask him to refrain from interjecting.

The Hon. A.J. REDFORD: I thank you, Sir, for your protection. With those few exceptions, I congratulate the Australian Labor Party for the ultimate compromise and, at the end of the day, we have some good legislation, notwithstanding the spoiling efforts of the Australian Democrats.

The Hon. ANNE LEVY: I wish to add a few remarks, as a member of the conference, and I support very strongly the motion to adopt the recommendations from the conference. It is, of course, a compromise. No-one will be entirely happy with the result, either the Government, the Opposition, the Democrats, the Local Government Association or, I imagine, a lot of individual councils. It is a compromise, but I believe a workable one. I certainly hope that local government will give it a go; try to put it into operation and, if it is found to be unworkable, obviously, there would have to be amending legislation. I believe it will be worth trying on the part of local government, and I hope it will cooperate and approach boundary reform with goodwill and sensitivity.

A great deal of discussion has taken place about the rate issue, and I have long argued that a mandatory 10 per cent cut in rates could be grossly unfair on councils which have not taken part in any boundary reform; and one can here refer to what is commonly known as the G5, which refers to already very large councils, and this could unduly penalise them. It could also have the result of rewarding inefficiency and penalising efficiency, in that councils which had been efficient would have to cut severely services with a rate reduction, whereas those which were inefficient could absorb the cut in rates without reducing services. A message should never come from any Government that efficiency will be punished and inefficiency rewarded.

The rate system which has been devised, or the limitation on the autonomy of councils with regard to rates is, I agree, a partial reduction of their autonomy but not, I believe, a serious one. There will certainly be no forced reduction of rates. Rate increases will be limited—this is overall rates, of course—to CPI increases for a couple of years. Certainly, when boundary alterations occur there is likely to be possibilities of great savings which could lead to rate reductions. I would remind people that what is set down in the legislation is a ceiling, not a floor, to the rates, and that savings may well mean that rate rises can be reduced and even that rates might fall. I certainly appreciate the point that, if savings are made, it is up to the individual councils, representing their ratepayers, to decide whether the savings are put into rate reductions, debt retirement or increased provision of services. That is for each local community to decide, the decisions being made by the people they have democratically elected.

The Minister spoke about the possibility of extenuating circumstances being recognised by the board so that the provision regarding the capping of total rate revenue need not apply, and he suggested that situations such as Stirling might be viewed in this light. I remind members that the trouble at Stirling was not paid for by the Stirling council and its ratepayers: more than 88 per cent of it was paid for by the taxpayers and the Government of this State. A situation where the taxpayer is picking up the tab can hardly be regarded as an extenuating circumstance.

What we on this side of the Council have in mind with regard to extenuating circumstances is councils where a great deal of development is occurring, where population is increasing rapidly and where there are new subdivisions, all of which have the potential for increasing rate revenue without increasing the rates for any particular individual, with of course greater revenue being required for the services necessary in the new subdevelopment. That situation would apply to a number of outer suburban councils where development has been and is still occurring. That is very much what we had in mind when talking about extenuating circumstances: allowing the board to grant an exemption to the provision on the capping of rates.

I would also like to make a couple of comments about the reduction of the planned 50 per cent turnout to 40 per cent. I remind members that in 1989 there was enormous controversy about boundary reform involving Mitcham council. It was, of course, the only boundary reform that was being considered at the time, and it regularly made the front page of the *Advertiser*. However, I imagine that over the next couple of years, as boundary reform occurs, any controversies that arise may not make the front page of the *Advertiser* but may well cause a lot of controversy in the local press, whether it be the Messenger Press or country newspapers. I imagine that will be limited to the particular areas concerned and not spread right across this State through the *Advertiser*.

Even in the situation in 1989 in Mitcham, after enormous controversy, there was only a 46 per cent turnout. Of course, there was no postal voting in that case, although Mitcham council could have organised that had it so wished: the referendum was entirely at its discretion, and it determined the rules for it. So, lack of postal voting was not a Government decision; it was Mitcham council's decision. However, the council achieved only a 46 per cent turnout. So, to reduce the turnout figure from 50 per cent to 40 per cent is entirely reasonable.

I would like to make one other comment in response to the comments of the Hon. Angus Redford, who spoke of the ease

with which someone who is opposed can stir up a controversy regardless of whether it is in the best interests of the district, the ratepayers or the taxpayers, etc. I certainly take his point. I recall clearly that in 1989 one of the greatest opponents of any boundary reform involving Mitcham council was Stephen Baker, who spent a great deal of energy and time fermenting the controversy in the Mitcham area. The wheel has turned full circle, and we now have Stephen Baker championing local government reform, reductions in rates and Government control of local government.

The irony of the situation has certainly not been lost on me, and I am sure that it is not lost on a lot of other people who can recall the events of 1989. I do not wish to take up the time of the Committee, but the result of the conference will lead to significant boundary reform in local government in this State, and that is something that all responsible people have been recommending and working towards for many years. This is not a Johnny-come-lately proposition. The process of reform of local government has been going on for quite a long while, both by local government and by State Governments. I signed the first ever memorandum of understanding between local government and the State Government. A great deal has occurred since then under the aegis of both Governments, and reform is obviously set to continue.

Probably no-one will be entirely happy with the resulting legislation, but it is a fair compromise that should do a great deal to assist local government in this State and, while the proof of the pudding is in the eating, I certainly expect the result in general to be to the overall benefit of local government—a most important element of our community throughout this State. I support the motion.

Motion carried.

CRIMINAL LAW CONSOLIDATION (APPEALS) AMENDMENT BILL

The House of Assembly intimated that it did not insist on its amendments to which the Legislative Council had disagreed.

STATUTES AMENDMENT (WORKERS REHABILITATION AND COMPENSATION) BILL

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

SOUTH AUSTRALIAN HOUSING TRUST BILL

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

ADJOURNMENT

The Hon. K.T. GRIFFIN (Attorney-General): I move:

That the Council at its rising adjourn until Tuesday 6 February 1996.

As we rise for the Christmas break I take the opportunity to pay tribute particularly to people who work behind the scenes in serving the Legislative Council and also the rest of the Parliament: the Clerks, who have had to work much longer hours than we have to ensure that everything is done properly; the messengers, who are always on call; and also *Hansard* and others who work behind the scenes. When members breeze in and out of here to have a cup of tea or take a break we forget that there are staff, whether they be Clerks, messengers or *Hansard* and others servicing the affairs of the Parliament, who are continuing to work. Just occasionally I have managed to get up to see the *Hansard* reporters and the people who work with them. They keep going notwithstanding the pressures that we impose upon them.

To all those who undertake important functions in making this place work I want to extend the best wishes of the Government, the compliments of the season, and I hope that 1996 will be a rewarding and prosperous year for them. To the caterers, of course, and all the other people behind the scenes, including the caretakers, I extend our thanks for their efforts during this year, and also those best wishes.

Over the past year we have endeavoured to avoid, as much as it is possible to avoid, late night sittings. We are not always successful in doing that, but the approach that we have taken—and it may be a reflection of the three separate sitting periods that has had this effect—has meant that we have sat fewer long nights than when we had just the two sitting periods each year. It may also be that people are being more economic with what they have to say and also more discerning about the points they take in relation to particular legislation or motions. I hope that in 1996 the progress we have made with the three-period sittings during the year might be improved even further. As I said last night in a somewhat different context, this place will not work unless members of Parliament of all political persuasions talk to each other and honour some of the conventions which have been developed over a long period and which enable us to confide in members of other Parties about matters which, if on the public record, might be issues that cause some consternation. Sometimes that has to be done to enable this Legislative Council and, in fact, the whole Parliament to work effectively. I put on record that, in the majority of cases, I might say, I have certainly appreciated the cooperation of members. Exceptions have occurred, but I suppose we could all make criticisms of each other in respect of those exceptions. I hope that in 1996 we will continue the reasonable relationships that enable the Legislative Council, in particular, to work effectively.

On my side, and with my colleagues the Minister for Education and Children's Services and the Minister for Transport, we have been anxious to ensure that we provided information to members, particularly when it comes to dealing with Bills and to facilitate their consideration. That will continue in 1996.

So, to all the members, my colleagues on this side of the House and colleagues in other Parties on the other side of the House and on the cross benches, we extend the compliments of the season and hope that 1996 will be fruitful and rewarding.

The Hon. T.G. ROBERTS: As Acting Leader of the Opposition, I rise to say the traditional 'Thank you' to all our staff and particularly to Jan, who reached a milestone just recently and who maintained her goodwill all during the week (she must not have celebrated it too much: she will probably let her hair down when Parliament gets up); to Trevor, Chris and Paul; to Graham, Ron and Todd, the messengers, who worked tirelessly (I hope they have the speakers on in their office); and to *Hansard* for their efforts. Most of us were too busy last night to get to the annual drinks gathering.

The Hon. G. Weatherill interjecting:

The Hon. T.G. ROBERTS: I thought there would be somebody down there representing us (you did not need to

have 10 drinks per person though, George, to represent our interests).

The Whips have done a very good job during the year to make sure the business of the Council has been maintained. I must endorse Trevor's remarks about the exception of one or two Bills that entered very rapidly towards the end without a lot of consultation. We will always get that. The first three years under our Government were probably the worst I have had in the 10 years I have been here, in terms of workload, log jamming and the hours we had to put in towards the end of the sessions to get the work done. That has not happened this year.

There has been the normal amount of conferencing and the conference managers have been able to get the final Bills through without a lot of acrimony. That has allowed us to get away at a reasonable hour on a week day—there is no Saturday sitting! I also thank the catering and other joint parliamentary services staff and the staff of the standing committees, whom we tend to forget, because they are not in the building and we are not running into them all the time. Those who service the standing committees do a lot of good work away from the actual parliamentary process.

We make up a whole team, and it is a bit like a ship. All the staff integrate to make it what it is and, if one part of it is not pulling its weight or is getting out of kilter with the rest, that feeling tends to run through the whole process. I must say that the parliamentary year has been happy and integrated, which I think everybody has appreciated, given the type of work we have to do and the hours we have to put in to achieve a result.

With those few words, I endorse the motion and wish everybody on both sides of the Council a merry Christmas. When we return, let us hope that 1996 is as pleasant as this year has been.

The Hon. M.J. ELLIOTT: I speak on behalf of the Australian Democrats in this place when I thank the table staff and the clerks, the messengers, *Hansard* and other staff. All those people play crucial roles in the working of the Parliament. This is a machine, and there are many cogs. The members of Parliament are just one set of cogs and it requires all the other components for it to work. We are very fortunate in the quality and dedication of the staff we have in various areas of Parliament House. I would agree with the Attorney-General that the three sittings have been a major advance. There is no doubt that that has made things work much more smoothly, and I appreciate the introduction of the three-sitting year. I think it has been a major reason why the log jam has gone.

I will repeat with as little bitterness as I can that a few too many Bills came in with only two weeks notice right at the end. That was the only down side. There was enough time to debate them, but there was not enough time to prepare for them, and that was the problem. With three sittings there should be no reason why we cannot introduce matters and give them enough time for proper consideration. It is with a relatively low level of bitterness that I raise that.

We must always expect in this place that there will be tension. We are disagreeing over things that are very important to us. We all have our own particular philosophies which we hold dear, and we must expect that occasionally something comes up that is very important to people and that they will feel so strongly that there will be tension. At the end of the day, in our democratic system we must be able to respect the differences and not personalise them, and I think that most people in this place manage to achieve that.

I recall a Russian delegation which visited some years ago. It was made up of some Gorbachev supporters, some Yeltsin supporters, and I think there must have been an independent amongst them as well. Liberal members, Labor members and the one Democrat member at that stage attended the dinner. The members of the delegation could not believe that we actually talked to each other. They could not believe it because they were not talking to each other. They came as a delegation from the Soviet Union and they did not talk to each other. Our system of democracy works even though there are differences of philosophy because, at the end of the day, we respect those differences. We may get very upset about the consequences of other people's philosophies from time to time, but we respect those people who have a philosophy that is different from our own.

We have had some challenges and we have had some tensions, and we will have some more: that is to be expected. However, as long as the general respect for the system itself is maintained, our democracy is in good health. On behalf of the Democrats, I extend to everyone the compliments of the season. I guess, after two months, we will all be back with smiles on our faces.

The Hon. J.C. IRWIN: I will detain the Council for a few seconds to add my remarks. I support the remarks of the Attorney-General, the Hon. Terry Roberts and the Hon. Mike Elliott. I add to the list of the function areas of Parliament the two that did not receive a mention, that is, the library, which is always open for us through sitting days and non-sitting days, and the catering staff, who have to try to feed us. I suppose that is simple enough on ordinary sitting days, but at the end of a session I am sure John Sibley finds it difficult to schedule arrangements, especially for occasions such as last night. So, I add those two areas to the list.

I particularly thank the Opposition Whip, the Hon. George Weatherill, for his diligence and friendship and the way he conducts himself in trying to arrange the pairs and in the small part we play in the business of the Chamber. We fortunately share some bad habits, so we seem to meet frequently around the dark and dingy areas both inside and outside Parliament House. I also thank my informal deputy, the Hon. Caroline Schaefer, and the Hon. George Weatherill's informal deputy, the Hon. Trevor Crothers, for stepping into the breach when we are not available and for their work in helping us keep the Chamber moving along and the numbers correct. I wish everyone a merry Christmas and a happy new year, and I look forward to seeing you all in 1996.

The PRESIDENT: I must thank everyone, particularly the clerks and their secretaries. Without them my job would be a lot harder. I also thank the Whips, because they make my job much easier. If the Whips cannot control members, I have no show. I thank the Leaders who, in turn, ensure that the proceedings of the Council run smoothly. I thank the Deputy President, who has been very helpful, and others who have assisted during the year. This has been an interesting year, because two new members were elected to the Chamber. It will be their first Christmas as members of this Council, and I hope that they enjoy it. There will be some disruption in 1996, and that cannot be avoided. I hope that we will have more pleasant surroundings in 1996 as they are not up to par at the moment. I wish you all a very happy Christmas and a

pleasant New Year. I hope that 1996 runs as smoothly as this year.

Motion carried.

LOCAL GOVERNMENT (BOUNDARY REFORM) AMENDMENT BILL

The House of Assembly intimated that it had agreed to the recommendations of the conference.

At 5.2 p.m. the Council adjourned until Tuesday 6 February 1996 at 2.15 p.m.