LEGISLATIVE COUNCIL

Wednesday 7 February 1996

The PRESIDENT (Hon. Peter Dunn) took the Chair at 2.15 p.m. and read prayers.

ASSENT TO BILLS

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

Administrative Decisions (Effect of International Instruments),
Building Work Contractors,
Classification (Publications, Films and Computer Games),
Consumer Transactions (Miscellaneous) Amendment,
Controlled Substances (General Offences—Poisons) Amendment,
Criminal Law Consolidation (Appeals) Amendment,
Criminal Law Consolidation (Mental Impairment) Amendment,
Dog Fence (Special Rate, etc) Amendment,
Environment Protection (Forum Replacement) Amendment,
Friendly Societies (Miscellaneous) Amendment,
Housing Cooperatives (Housing Associations) Amendment,
Local Government (Boundary Reform) Amendment,
Office for the Ageing,
Opal Mining,
Racing (Amalgamation of Pools) Amendment,
Security and Investigation Agents,
South Australian Housing Trust,
South Australian Multicultural and Ethnic Affairs Commission (Constitution of Commission) Amendment,
South Eastern Water Conservation and Drainage (Miscellaneous) Amendment,
Stamp Duties (Valuations—Objections and Appeals) Amendment,
Statutes Amendment (Courts),
Statutes Amendment (Courts Administration Staff),
Statutes Amendment (Drink Driving),
Statutes Amendment (Sunday Auctions and Indemnity Fund),
Statutes Amendment (Workers Rehabilitation and Compensation),
Statutes Repeal and Amendment (Commercial Tribunal),
Summary Offences (Overcrowding at Public Venues) Amendment,
Superannuation (Contracting Out) Amendment,
Water Resources (Imposition of Levies) Amendment.

LEGISLATIVE REVIEW COMMITTEE

The Hon. R.D. LAWSON: I bring up the fifteenth report 1995-96 of the committee and move:

That the report be read.

Motion carried.

The Hon. R.D. LAWSON: I bring up the sixteenth report 1995-96 of the committee and move:

That the report be read.

Motion carried.

The Hon. R.D. LAWSON: I bring up the seventeenth report 1995-96 of the committee.

HART, MEMBER FOR

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 Infrastructure in another place on the subject of allegations made by the member for Hart.

Leave granted.

PORT ADELAIDE FLOWER FARM

The Hon. R.I. LUCAS (Minister for Education and Children's Services): Given the immense interest in this topic and the fact that it holds the record for the two longest speeches in this Chamber, I seek leave to make a ministerial statement on behalf of the Deputy Premier and Treasurer on the Port Adelaide Flower Farm.

Leave granted.

The Hon. R.I. LUCAS: Members will recall that the operations of the flower farm and the Port Adelaide council have been the subject of several statements in this Chamber by the Hon. Legh Davis during the past 12 months. By way of background, the scheme was established in August 1988 with the approval of the then Minister of Local Government under what was section 383a of the Local Government Act. The scheme involved a flower farm for the production and export of cut flowers in the Le Fevre Peninsula area on 13 hectares of reclaimed land. The flower farm was a high profile example of the use of local government powers to enter into non-traditional or entrepreneurial schemes.

In August 1995, as a result of continued poor operating results, the Port Adelaide council decided to discontinue the operations of the flower farm and liquidate its assets. In recent months, intensive debate in this Chamber about this matter has generated substantial media and public interest. The Hon. Mr Davis raised a number of issues of significant public concern, including allegations that the flower farm was not commercially viable, that the true extent of the loss was concealed by the Chief Executive Officer of the farm and the council, and that the council was misled by over-optimistic revenue forecasts.

The statements provoked a flurry of communications and reports from the various involved parties which have been made available to the Deputy Premier in his capacity as Treasurer and which have been subject to some preliminary examinations. It is also evident that there are large discrepancies between the financial results reported by the Port Adelaide council with respect to the flower farm and those contained in the statements made by the Hon. Legh Davis.

Preliminary analysis of publicly available financial information suggests that the primary reason for the discrepancy lies in the recognition by the Hon. Legh Davis of notional interest costs on the flower farm debts, converted to equity in 1992, and on the original capital contribution made by the council. Those costs do not form part of financial statements prepared by the council. Depending on the inclusion or otherwise these costs, the total accounting losses attributable to the farm since its establishment in 1988 to 30 June 1995, are considerable—between $2.8 million and $4 million of public funds. A significant and highly visible example of a local government enterprise has gone awry in controversial circumstances.

Advice has been sought from the Crown Solicitor about options open to the Government. The most appropriate avenue for an investigation on the information currently available is for a request to the Auditor-General under section 32 of the Public Finance and Audit Act. It is against this backdrop that the Treasurer has decided to exercise his power in accordance with that Act in requesting that the Auditor-General examine the accounts of the Port Adelaide Flower Farm Board and to examine the efficiency and economy with which the board has conducted its affairs to date. Particularly, and without limiting the generality of his examination, the Treasurer has asked that the Auditor-General:

· inquire into and report on the nature and extent of the financial losses which arose from the operations of the flower farm and the principal causes of those losses;

· inquire into and report on the extent of financial reporting by the board to the council on the finance performance and financial position of the flower farm and whether that reporting was adequate;

· inquire into and report on the relationship between the board and the members and officers of the council in so far and to the extent that this relationship is relevant to the efficiency and economy with which the board has conducted its affairs to date.

Mr President, it is the Treasurer's belief that the ratepayers of Port Adelaide, and indeed of South Australia, deserve some explanation of this matter, not only in order to satisfy themselves about this particular failure but also to avoid the recurrence of such circumstances in the future.

QUESTION TIME

SCHOOL RETENTION RATES

The Hon. CAROLYN PICKLES: I seek leave to make a brief explanation before asking the Minister for Education and Children's Services a question about school retention rates.

Leave granted.

The Hon. CAROLYN PICKLES: Last May I drew attention of members to the important issue of falling retention rates for secondary school students completing year 12. While the Minister did not apparently share my concern that about a quarter of our children were failing to complete secondary school, he did say that his department was looking at this issue.

Statistics released for 1995 indicate that the position in South Australia has deteriorated even further. No longer can the Minister rely on saying, 'We remain above all States.' In 1995 the retention rate fell to 71.4 per cent which is lower than Victoria, Queensland, the ACT and, for the first time in many years, lower than the Australian average. Last year the Minister suggested that retention rates had fallen because of increased job opportunities. However, the youth employment figures do not support this claim. He also suggested that there were difficulties with the introduction of SACE and he highlighted some of those difficulties. My questions to the Minister are:

1. What advice did he receive from his department on why retention rates are falling, and what is the Minister doing about this issue?

2. Has SSABSA addressed this matter and considered whether there is any link between falling retention rates and the introduction of SACE?

The Hon. R.I. LUCAS: We have been considering this issue and I will bring back a little more information in due course and provide a written response to the honourable member. I can provide more information as a result of the investigations that my department has made of the 1994 and 1995 figures.

A couple of important issues will need to be highlighted in relation to the retention rate figures. First, for some strange reason the Australian Bureau of Statistics chooses to ignore the 3 000 students we have in Government schools in South Australia actually doing year 12 but doing it as a part-time student. For some strange reason, the Bureau of Statistics defines a retained student at year 12 for the definition of 'retention rates' as someone who is completing year 12 full time. With its introduction three or four years ago, one of the chief advantages of the South Australian Certificate of Education was that students were able to undertake their SACE over two or three years if they wanted to. They could do two subjects in one year, three in the next year, then use their highest score in the five subjects to try to enter university, if that is what they wished.

In South Australian Government schools we have seen the most significant increase in the number of part-time students in year 12 of any State in Australia, I think. We, together with one other State—from recollection, Tasmania—have the highest percentage of part-time students studying at year 12. For some strange reason, in relation to the figures to which the honourable member refers and which the bureau publishes, we have 3 000 real people sitting out there in Government schools doing year 12 who are ignored in the figures of supposed retention rates. That figure of 3 000 is of the order of 25 to 30 per cent of the total number of year 12 students we have in our Government schools.

So, the Bureau of Statistics is saying that it will ignore those 3 000 (almost 30 per cent) students who are doing part-time year 12 studies and will look only at the full-time students, and then report on those figures in terms of retention rates. I have said publicly that that does not make much sense to me. I do not know whether it makes much sense to the Leader of the Opposition or anyone else who wants to look at the particular figures, other than for making attempted political capital out of them, but—

The Hon. R.R. Roberts interjecting:

The Hon. R.I. LUCAS: No, because in South Australia we are the highest State in terms of percentages of part-time students, together with Tasmania. From recollection, again, back in 1991 we had about 1 300 part-time year 12 students and now we have about 3 000.

The Hon. T.G. Cameron interjecting:

The Hon. R.I. LUCAS: These are young people at school or people who have returned to school.

The Hon. T.G. Cameron interjecting:

The Hon. R.I. LUCAS: No, they are combinations of students. You can do year 12 now over two years. Those of you who have year 12s or have had year 12s in recent memory—the Hon. Terry Roberts would be one—would know that you can do year 12 over two years; that is one of the attractions. You could have a go at five subjects if you wanted in your first year and, if you did not do too well, you could have another go again later, but you can actually do part-time studies. You can work part time, put yourself through, if you want to. It may well be that you want to maximise your score and think that, by doing just two subjects in one year, you can get your maximum score, because you have to concentrate only on two subjects and in the following year you can do three subjects or vice versa, or you can return.

So, the growth has been extraordinarily large in South Australia because the SACE has encouraged that. As I said, I think the figure is from 1 300 up to 3 000 students, so almost 30 per cent of all our students are part-timers and therefore ignored by the Bureau of Statistics. Secondly, in South Australia we have the highest percentage, together I think with Tasmania, of part-time students. The second issue is that in 1995 for a variety of reasons, but principally because university entrance scores dropped dramatically—I think TAFE also took additional places—and because the

employment market for young people improved, we had almost a halving in the number of year 12 repeaters, the students that the Hon. Mr Cameron was talking about.

So, in 1994 we had about 1 300 or 1 400 students who, having undertaken year 12 in 1993, could not get into university or get a job and decided to come back and do year 13 or to repeat year 12. So, we had 1 400 of those in our retention rate figures and they are included in those figures. In 1995 that number dropped by half: we had only 700 students who had to come back to do year 12 again.

That was because some students were being accepted into university courses with scores of 38 out of 70, whereas in the previous year the entrance score for those same courses was about 44. There had been a drop of about five or six marks in some of those entrance scores. That was another significant factor which impacted on the 1995 figures. Again, any reasonable interpretation of both of those would not lead to any criticism of the Government, the department or indeed the system, because on the one hand we have part-time students who are actually doing Year 12, and on the other we have students who have gone on to gain employment or into university when previously they had had to repeat their Year 12. There are some other factors as well, and I will bring back some information on them.

In relation to the third question that the honourable member asked in relation to SSABSA and SACE, I can indicate that SSABSA is about to conduct a major review of SACE this year; I think it commences in the not too distant future. This is one of the issues that the Senior Secondary Assessment Board will be considering and, importantly, because it has to consult parents, students, principals and teachers, who are all represented on the assessment board, it will be able to throw some light on the anecdotal information I shared with the honourable member last year as to whether or not the degree of difficulty of SACE was discouraging. The assessment board is an independent body and not subject to my control. If the Leader of the Opposition has some concerns over what she claims to be the tardiness of SSABSA, I will be happy to relay them to Dr Jan Keightley, who is a very fine Chief Executive Officer of SSABSA. I will take a short commercial break for SSABSA: I thought the results release this year was a terrific indication of the work Dr Jan Keightley and her staff have done. I guess they have been concentrating on getting their bread and butter correct.

Members interjecting:

The Hon. R.I. LUCAS: If you want more commercials I will give them. So, their concentration has—properly—been on getting the results release right. I certainly would not entertain any criticism of Dr Keightley or her staff. Now they have that right and they are looking at the review of the South Australian Certificate of Education, this will be one of the issues that they will address.

FORESTS

The Hon. R.R. ROBERTS: I seek leave to make a brief explanation before asking the Minister for Education and Children's Services and Leader of the Government in the Council a question about the sale of State forests.

Leave granted.

The Hon. R.R. ROBERTS: Yesterday the Attorney-General refused to deny that the Premier had sought advice from the Attorney-General or Crown Law as to whether he had misled Parliament over an answer to a question in the House of Assembly on 30 November 1995, in relation to proposals being prepared by the Asset Management Task Force on behalf of the Government to sell off our publicly owned forests. In answer to my questions regarding these proposals and my assertions on 30 November that the Government was actively considering the sale of South Australian softwood forests to overseas interests, on 30 November 1995 the Minister for Education and Children's Services stated—

Members interjecting:

The PRESIDENT: Order!

The Hon. R.R. ROBERTS: —that he accepted the Premier's statement to the *Border Watch* of 21 November 1995 that 'Of course we are not looking at selling the forests.' Subsequent evidence presented to the Opposition, which I indicated yesterday, clearly indicates that the reported statement did not represent the truth of the Government's activities at that time. The cover letter to a document entitled 'The Major Economic Issues to be Considered in Evaluating Options for the Future Ownership, Management and Control of the State Owned Plantation Forests' prepared by the Government by Mr Kevin Kirchner of the Centre for Economic Studies and dated 30 October 1995 (one month before I asked these questions) states quite clearly that that paper was prepared to identify the major economic issues associated with the possible sale of the South-East forests. Quoting one part of that report, it states on page 1:

> As stated above, it concerns the SACES [Centre for Economic Studies] that it appears that many of the fundamental economic and financial issues relating to the possible sale of the South-East forests have not been adequately assessed.

Clearly, they are looking at another report which is the one that was prepared, I would suggest, for the assets management committee. The other document that I referred to yesterday was an opinion to a Mr Roger Sexton, Chairman of the Assets Management Task Force, and I point out again, because it is important, that this was on 14 September, almost two and a half months before I asked those questions as I mentioned. In the first paragraph, it states,

> As requested, I have perused the Forestry Act, etc.,

and the final part of that paragraph states:

> . . . as contemplated by the Cabinet submission.

This was on 14 September. The Opposition today has received a Government briefing note dated 16 October 1995, again almost a month and a half before I asked those pertinent questions, in relation to the sale of forest harvesting rights in New Zealand, and lessons to be learnt when considering the sale and management of South Australian forests. I seek leave to table the document.

Leave granted.

The Hon. R.R. ROBERTS: Therefore, the Government had newly prepared reports and briefing notes for the sale of the forests whilst the Premier was telling the public that no such preparation or consideration was taking place. My question to the Minister for Education and Children's Services is: Why did the Minister, who would have been fully aware of the discussions with the Government on this issue, choose on 30 November 1995 to cover up the untruthful statement that had been attributed to the Premier in the *Border Watch* on 21 November, that, 'Of course, we are not looking at selling the forests'?

The Hon. R.I. LUCAS: It does not really matter whether the honourable member has a lorry load of documents that he wants to table, quote from, refer to or whatever—they are all documents from 1995 or before, and the Premier and/or

Deputy Premier yesterday clearly indicated on the public record that the Government is not selling the forests—full stop. The policy that was taken to the election late in 1993 and the position that has been laid down by the Premier and/or Deputy Premier yesterday in another place clearly indicate that the Government will not sell the forests—full stop.

Members interjecting:

The Hon. R.I. LUCAS: So, I am not particularly fussed whether the Hon. Ron Roberts spends the next two years coming in with dated documents from 1995, 1994 or whenever, frankly—

Members interjecting:

The Hon. R.I. LUCAS: —or the Labor Government, frankly, Mr President. I will be quite keen to just sit back, listen and let the honourable member spend his time if he wishes referring to dated documents from earlier years. The simple facts of life are that the Government is not going to sell the forests—full stop, exclamation mark, end of story, that is it! Whether or not the honourable member wants to refer to documents, if people have been looking at things or whether people want to put something to the Government, as a member of Cabinet I can say that we have not made a decision to sell the forests. The Government's position has been indicated by the Premier and Deputy Premier quite clearly and explicitly. There will be no change to the Government's position, a position with which the member for Mount Gambier and others I am sure are very comfortable.

The Hon. R.R. Roberts interjecting:

The PRESIDENT: Order! The honourable member had a fair chance to ask his question.

LAND, URBAN

The Hon. T.G. ROBERTS: I seek leave to make a brief explanation before asking the Minister for Transport, representing the Minister for Housing, Urban Development and Local Government Relations, a question about urban land sales.

Leave granted.

The Hon. T.G. ROBERTS: I have been raising with councils and local community groups around South Australia the prospect of the Government selling land within communities that could be used for community use if it is determined by these community organisations and local governments to participate in those sales. I have been highlighting the fact that they should compile a register or list of land that may come onto the market so that they can anticipate sales, approach the Government in an orderly fashion and start the bidding process, or at least put in their claims for that land for community use. Unfortunately, a lot of local governments and community organisations have been a bit slow off the mark and have been outmanoeuvred.

An article in today's *Advertiser* by Jane Read headed 'Government's "secret land sale" angers council' highlights that very case, where land in the Salisbury council area was put up for sale. If I read correctly the message in the article, the comments by the Mayor of the Salisbury council are more than a little heated. I will read the article so that those reading *Hansard* can understand the conflict that has developed. The article states:

> Salisbury council was outraged over the sale of another plot of State Government land for commercial development, its Mayor claims. The $1.8 million went through secretly for a 'quick money grab', Mr David Plumridge says. The site, on the corner of Grand Junction and Walkleys Rds, Walkley Heights, was under review for possible rezoning and Mr Plumridge said it should not have been sold until a decision had been made.

I suspect that he is there talking about the rezoning decision. The article continues:

> 'It makes a mockery of the so-called planning processes,' he said. 'This is a blatant example of an alarming trend by the State Government to *ad hoc*, developer-driven planning. It may appease one hungry developer but it will certainly starve others who have made investments based on what used to be a planning system founded on integrity and certainty.'

They are fairly hash criticisms coming from an experienced mayor of a large council who has had a long and detailed history interpreting and policing the Act. The article continues:

> The land falls within the boundaries of the Enfield council, but Mr Plumridge said many adjoining properties within the Salisbury boundaries could be affected by the development. 'The State Government had also recently sold 20ha of State Sports Park land in the northern suburbs to Woolworths without the proper planning process,' he said.

There are other comments in the article, but I will keep the explanation brief so that I can have my questions answered. There is an accusation of conflict of interest regarding the Minister who sits on the assessment board for the development applications, and I understand that in the Lower House the Minister has explained that he will not be responsible for the final decision and that he will transfer that decision to the Minister for the Environment and Natural Resources (Hon. David Wotton), and I respect him for that—

The Hon. M.J. Elliott: Wotton is in charge of the land sales.

The Hon. T.G. ROBERTS: That is quite possible. My questions are:

1. Did the Government offer the land at the corner of Grand Junction and Walkleys Roads at Walkley Heights to the Salisbury council for purposes designated by the Salisbury council for community or other use? If so, at what price? If not, why not?

2. Can the Minister give Parliament a guarantee that the land will not be rezoned and possibly give the buyer a huge windfall? What developments and impacts does the Government see as acceptable for this area, given that there are other landholders, users and potential buyers in this area?

The Hon. DIANA LAIDLAW: If the honourable member will bear with me, I will read a ministerial statement delivered in another place today by the Minister for Housing, Urban Development and Local Government Relations because that does answer a number of the issues that have been raised by the honourable member. In the ministerial statement the Minister said:

> I am responding to serious allegations raised in an article in the *Advertiser* this morning which quotes Salisbury Mayor, Mr David Plumridge, concerning the sale of a parcel of land at Walkley Heights. I will address each of these allegations as referred to.
>
> First, I categorically state that the sale was not done secretly, as claimed. Since the property had been on the market since March 1995, it is hardly the 'quick money grab' Mayor Plumridge alleges. I am disappointed that Mayor Plumridge did not have the courtesy to contact me regarding his concerns—all of which are unfounded. Instead, he chose to spread misinformation through the media.
>
> In March 1995 the Urban Projects Authority offered approximately 11 hectares of land on the corner of Walkleys Road and Grand Junction Road, Walkley Heights, for sale by tender. The land is zoned residential, and was offered as a part of three separate parcels associated with Walkley Heights disposal. The property was advertised nationally and tenders closed in May 1995. Due to the nature of the national market a buyer was not found at that time. A 'for sale sign' was therefore placed on the site clearly visible from

Grand Junction Road from May 1995. In mid-October 1995 the purchaser took an option to purchase 11.7 hectares of the land, which is zoned residential, with the option finally expiring on 22 December 1995.

The land is now subject to a Planning Amendment Report (PAR) proposing to amend—

The Hon. M.J. Elliott: Is that a ministerial amendment to this plan?

The Hon. DIANA LAIDLAW: I will determine that for the honourable member. I continue to quote, as follows:

The land is now subject to a Planning Amendment Report (PAR) proposing to amend the zoning to accommodate a bulky goods retail store. That PAR was submitted to the Development Advisory Committee for recommendation on 20 December 1995 and subsequently approved for public consultation on 9 January 1996.

No, it is not a ministerial direction, in that sense, so I do not need to obtain the advice for the honourable member. The ministerial statement continues:

The PAR was initiated by Enfield council during the course of negotiations of the sale—but I stress the sale was agreed prior to either:

1. the release of the Development Advisory Committee (DPAC) recommendations to me on whether to release the PAR for consultation with the public, or
2. any decision by me of whether it was appropriate to allow the PAR to proceed to the stage of public consultation.

I in fact took steps to ensure that there was a separation between the decision by the purchaser to obtain the property and the release of the DPAC recommendation and my approval. This was done to ensure that the purchaser accepted the risk of any rezoning process. Prior to the decision to purchase, the only step taken was agreement on the statement of intent that would guide any draft proposal by council.

As I was the Minister for the South Australian Urban Projects Authority [that is the Minister for Housing, Urban Development and Local Government Relations] who owned the land before the sale I [the Minister] thought it desirable to guard against any conflict of interest by removing myself from the final decision by delegating his authority to another Minister who has no responsibility for the South Australian Urban Project Authority or the recovery of sale receipts. I sought and received assurance from the Department of Housing and Urban Development that the DPAC recommendation would be kept confidential until after the sale decision on 22 December 1995. I have this assurance in writing from the manager of the Development Policy Branch.

I seek leave to table a copy of this letter dated 22 December 1995.

Leave granted.

The Hon. DIANA LAIDLAW: The ministerial statement continues as follows:

You will note that DPAC was reminded on 20 December of the need for confidentiality. There was therefore never any conflict of interest and I [the Minister] am satisfied that due process was followed in relation to the separation of the sale and the rezoning application and that all reasonable actions were taken to ensure that the purchaser had to accept the risk of any further rezoning process.

Essentially, that answers the honourable member's question.

The Hon. M.J. Elliott interjecting:

The Hon. DIANA LAIDLAW: I accept that. It continues:

Public consultation on the PAR will be completed by 11 March 1995. Council will then hold public hearings and submit the PAR together with its response to submissions and any amendment to the delegated Minister—in this instance Minister Wotton.

On behalf of the Minister, I repeat that the Government has at all times been careful to ensure probity and that the developer accepts the full risk of the rezoning process. The Minister strongly rejects any suggestion that the Government has acted other than with the strictest integrity in this matter and he resents the totally groundless allegations made by Mayor Plumridge.

The Hon. T.G. ROBERTS: I ask a supplementary question. In view of the answers given by the Minister representing the Minister for Housing, Urban Development and Local Government Relations, will the other parts to the question that I asked be forwarded to the Minister for reply and, in the light of the problems that the Government has had with this matter, will the Government set up an orderly process of community consultation for future land sales to allow local government and community organisations an opportunity to purchase?

The Hon. DIANA LAIDLAW: Certainly, I will refer the honourable member's further questions to the Minister. I would challenge his statement that we have had problems in this matter. Perhaps the honourable member may care to reread the Minister's ministerial statement. Nevertheless, I will refer the further questions to the Minister.

OLYMPIC DAM

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister for the Arts, representing the Minister for Housing, Urban Development and Local Government Relations, a question about Western Mining Corporation's Olympic Dam expansion plans.

Leave granted.

The Hon. M.J. ELLIOTT: With regard to this matter, it is possible that the Minister for Mines and Energy may be taking the lead under the Indenture Act rather than the Minister for Housing, Urban Development and Local Government Relations, although I am not certain of that. My question relates to Western Mining Corporation's plans to expand its mining operations at Olympic Dam with the proposal to open a second borefield in the area. The mining operation and Roxby township are entirely dependent on water drawn from the Great Artesian Basin. Presently, approximately 15 million litres a day is drawn from borefield A, which is about 100 kilometres north of the mine.

I understand that Western Mining now proposes to open up a second borefield approximately 200 kilometres north-east of the mine and to increase to 42 million litres a day the total amount of water withdrawn. Concerns have been raised with me about the impact of this new borefield on the surrounding region. Already concerns have been expressed about the lowering of the water table or draw down effect caused by borefield A, which has already caused three mound springs in the area to become extinct. The area's springs are unique in Australia and the world. Each spring has a number of flora and fauna species which are unique to that spring or that group of springs. They have brought with it unique eco-systems which have developed over long periods. The springs are also important for larger species in the area as the only permanent water source.

Although the new borefield will be quite a distance away from the existing borefield, the combined effect of the two draw down effects will threaten to cause long-term damage which is difficult to quantify. Concerned environmentalists say that estimating the full effect of the new borefield is difficult as only some information regarding the new borefield is publicly available. A survey and assessment report on the issue by Kinhill Engineers is available, but it is based on information that is not public, so original data cannot be verified or examined. The lowering of the water table will also affect pastoral activities in the area which depend upon bore holes and may require deeper bores being dug, or piped water. My questions are:

1. Have approvals been given for all pipeline and borefield applications?

2. Are there any outstanding approvals to come?

3. What public scrutiny and involvement is available regarding outstanding approvals?

4. Will the Government release the base data upon which the Kinhill report was based?

5. What examination has been made of efficient water use at Roxby Downs as an alternative to borefield B?

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

QUEEN'S COUNSEL

The Hon. T.G. CAMERON: Why has the Attorney-General not appointed any Queen's Counsel in the past 12 months?

The Hon. K.T. GRIFFIN: As Attorney-General, I do not make the appointments. The regulation in this State provides that the Chief Justice makes the recommendation to Executive Council. The Government has considered the issue of Queen's Counsel in consequence of the decision taken by the Council of Australian Governments, taking into account through that mechanism the Hilmer report on competition policy and the Trade Practices Commission inquiry into the professions, that there be a review of the appointment of Queen's Counsel. As I recollect, in this State appointments were made in 1994 and early last year. The Government is presently considering the policy issue about Queen's Counsel in consequence of the issues raised at the Council of Australian Governments, and I would hope that decisions—

The Hon. T. Crothers: Up the republic!

The Hon. K.T. GRIFFIN: It has some relevance to the issue of the republic, but the Government will make its decision on the issue very soon. In other States, for example, Western Australia has reaffirmed its decision to appoint Queen's Counsel; Tasmania has reaffirmed its position of appointing Queen's Counsel; and Victoria is continuing to appoint Queen's Counsel, but from a broader base. In New South Wales, because of tensions between the solicitors and the barristers, where there is a divided profession, the Government decided that it would no longer participate in the appointment of Queen's Counsel, and, in fact, senior counsel are appointed and the Chief Justice in New South Wales is involved with that process. In Queensland, senior counsel are appointed. In the Northern Territory, a decision was taken at one stage to introduce legislation to abolish the appointment of Queen's Counsel, but that has not been proceeded with and the Northern Territory Government has decided to continue to make appointments, although I do not think that any have been appointed in the past year or so. I repeat that it is an issue that this Government, through the Premier at COAG, gave a commitment to review. It is being reviewed and I hope that a decision will be taken on that issue in the near future.

The Hon. T.G. CAMERON: I have a supplementary question. Has the Chief Justice made any recommendations to the Government for the appointment of Queen's Counsel?

The Hon. K.T. GRIFFIN: Yes, recommendations have been made by the Chief Justice. I indicated to the Chief Justice before the appointments were recommended that the Government was presently considering its position in relation to the appointments of QCs. I have since informed the Chief Justice that the recommendations will not be processed until the policy issue has been resolved, and that will be done in the very near future. I make no secret of the fact that is what has happened and that it is an issue that has to be resolved. A lot of furphies about Queen's Counsel do the rounds periodically. There are people who seek to—

Members interjecting:

The Hon. K.T. GRIFFIN: I said that they are furphies. There are a lot of furphies about Queen's Counsel, and some seek to view the refusal to appoint QCs as related to the republic or monarchy issue. Other people ask why the Government should be involved in making a decision about Queen's Counsel, even though, when people are admitted to practise in the legal profession, they are admitted as officers of the Supreme Court, so they are an integral part of the justice system. Other people say that being appointed a Queen's Counsel is a licence to print money. It might be interstate but I suggest that, even if no QCs were appointed, high fees would still be paid for people who are capable and who attract the attention of those who want top legal practitioners and advocates.

In this State, under the previous Government and under this Government, QCs have been persuaded to provide their services at a very much lower rate than they might ordinarily command from private sector clients. For example, in the State Bank Royal Commission, no QC received more than $1 800 per day. One might exclaim that that is too high. In ordinary circumstances the going rate is $2 000 to $3 500, so we got them at a very much cheaper rate. In New South Wales—

The Hon. Anne Levy: You are debating the issue.

The Hon. K.T. GRIFFIN: No, I am giving answers. In New South Wales it is $5 000 or $6 000 a day. In this State we provide services. We provide legal services comparable with those of the Eastern States but at a much lower cost. A lot of issues have to be explored and I indicate and reaffirm to the honourable member that the issue should be resolved in the very near future.

ABALONE

The Hon. CAROLINE SCHAEFER: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister for Primary Industries, a question about abalone poaching.

Leave granted.

The Hon. CAROLINE SCHAEFER: It was with some concern that I read this morning in a suburban Messenger newspaper that abalone poachers are extremely active along the beach of Marino, where they are robbing undersized abalone in large quantities. Abalone meat is worth $100 per kilogram and they are taking approximately five kilograms each time, which is not only of considerable commercial concern but is at the extreme end of environmental vandalism. They are also using mobile telephones to warn of the approach of fisheries inspectors and they have sprayed graffiti challenges to those inspectors on the rocks from where they are poaching the undersized abalone. I consider that it is of considerable concern. My question is: what plans does the Minister have to put an immediate stop to the robbing of this natural resource?

The Hon. K.T. GRIFFIN: I will certainly refer that question to my colleague in another place. I do know, however, that what the honourable member says has a certain ring of truth about it: that there is, in fact, substantial activity off the rocks around that southern shoreline. I do know that the Fisheries Department inspectors are particularly active in

endeavouring to detect and apprehend those who may be taking shellfish contrary to the regulations. Members may recall that only within the last few months new regulations have been promulgated which, in fact, make it an offence to take shellfish from reefs and rocks. That applies, of course, to that southern coastal area. I will refer the question to the Minister. If there is any additional information to bring back, I will certainly do so.

GRAIN CROPS

The Hon. T. CROTHERS: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister for Primary Industries, a question about the growing of grain, legume and pulse field crops in South Australia.

Leave granted.

The Hon. T. CROTHERS: The South Australian grain growing season has just concluded. It is estimated that this State's farming community produced about two million tonnes of wheat and about 1.8 million tonnes of barley as well as moderate amounts of other grain crops. It has been said by many, and agreed by most, that this year has been an exceptional year for our farmers and many would say that position is not before time. However, it would seem that these good times come to our farmers all too rarely. I make the foregoing statement in light of some of the research work being done in South Australia in respect of farming crops such as lentils, chick peas and canola. I ask the Minister the following questions:

1. Does he believe that the survival rates of South Australian farmers are enhanced by their capacity to diversify their farming activities?

2. Does he believe that this diversification process is helped by virtue of our easier access to Asian markets—crops such as chick peas, lentils and other pulse crops readily spring to mind in respect of those markets?

3. How much funding per year is the present State Government contributing to the cost of agricultural research into diversification of South Australian farms in respect of the products which they grow and which are produced?

The Hon. K.T. GRIFFIN: I will refer the question to my colleague in another place and bring back a reply.

HINDMARSH ISLAND BRIDGE ROYAL COMMISSION

The Hon. ANNE LEVY: I seek leave to make an explanation before asking the Attorney-General a question about payment for representation at the Hindmarsh Island Royal Commission.

Leave granted.

The Hon. ANNE LEVY: A total of 26 lawyers—QCs and others—appeared before the Hindmarsh Island Royal Commission. In December, just before the House rose, I received an answer to a question that I had asked in October: six of these counsel were not paid for by the State Government, but the other 20 were. Those who were not paid for were counsel for the Federal Minister, counsel for Ian McLachlan, counsel for the Aboriginal Legal Rights Movement and counsel for Binalong Pty Ltd. I am surprised at that: I thought Binalong was bankrupt but it can afford its own counsel.

The reply that I received from the Attorney indicated—as I had presumed—that approval for funding is given by the Crown on condition that counsel do not accept any funding from other sources. But the Minister did make an exception and approved taxpayers' money to fund counsel for two journalists and permitted their employers to pay extra to those counsel.

From the royal commission's report, the two journalists to whom he is referring are, I presume, Mr Stephen Hemming from the *Advertiser* and Mr Chris Kenny from channel 10. They are the only two journalists who appear in the long list of names that forms part of appendix number 6 of the royal commission's report. I ask the Attorney:

1. Why is it that approval was given for the employers of these journalists to top up the money provided by taxpayers for the legal representation of these two journalists?

2. If their employers were prepared to pay towards their legal representation, why were they not expected to pay the total costs of their legal representation, and so save the taxpayer?

3. If their employers were not prepared to provide legal representation for them in the first place, why, having accepted taxpayers' money for legal representation, were their employers allowed to top up for these two journalists only?

4. Does the Attorney know the sum of the top-up provided by these employers, and how much the taxpayers provided for the legal representation of these two journalists?

The Hon. K.T. GRIFFIN: No-one can say that I have not been frank in relation to funding before the royal commission and, in due course, I will provide information to the House in relation to various figures for funding which have been made available. The Hon. Terry Roberts asked some questions towards the end of November about funding, and those answers will be provided, hopefully, within the near future. All the accounts in relation to funding have not yet been finalised. The whole issue of taxpayers funding those who appear before the royal commission is not an easy question to resolve. A number of criteria were set down by which parties would be funded.

The Hon. T.G. Roberts: Political friendlies first.

The Hon. K.T. GRIFFIN: I am sure that the honourable member is being facetious. The fact is that a large number of those who were represented and whose funds were paid for by the Government were anthropologists whose reputations were in question, whose careers were at stake, and whose evidence was in dispute; who, in fact, had provided information to the Saunders inquiry.

Members interjecting:

The Hon. K.T. GRIFFIN: I will deal with the journos, but you have to put it into a context; you know that. The Opposition is pretty good at asking a question and taking it out of a context, and all this needs to be put into a context so that we understand the broad approach that was taken. There were requests from a number of people and bodies in relation to funding, and I prevaricated over a number of those until I was persuaded, in discussions with the Crown Solicitor's officers, in particular, that the funding would be appropriate because either reputations were at stake or evidence was necessary or, in the case of the proponent women, that they ought properly to be represented. In fact, they declined to give evidence before the commission, but those men who were supporting them were actually funded.

And there were anthropologists, mostly those who had given information about the existence of so-called secret women's business, whose reputations and characters were on the line, whom we decided to fund. In relation to the journal-

ists, they were required by the Royal Commissioner to attend; their own reputations were in issue and—

Members interjecting:

The Hon. K.T. GRIFFIN: —the Government took the view on a matter of principle that they should not be treated any differently from the proponent women, the dissident women, the anthropologists and others whose reputations similarly were in issue. So, one could not treat them any differently. In relation to the issue of topping up, some matters were raised with me. I will obtain that information and bring back a reply.

MATTERS OF INTEREST

GUERIN, Mr B.

The Hon. A.J. REDFORD: Yesterday, in answer to a question on the Auditor-General's Report, the Premier advised this place of a number of aspects relating to the current employment of Mr Bruce Guerin, the former Chief Executive of the Department of the Premier and Cabinet. From 1983 Mr Guerin was the Chief Executive of the Department of the Premier and Cabinet. He later became acting Chief Executive of the MFP, and in 1992 was transferred to the position of Chief Executive of the Department of the Premier and Cabinet, then transferred to the position of Special Adviser in the Department of the Premier and Cabinet. In October 1993, in what could only be described as a sweetheart deal, he was transferred to the Flinders University of South Australia for a five year period.

The Government, as part of that deal, made a one-off grant payment to the Flinders University of $100 000 and undertook to meet the total cost of his remuneration package, including oncosts. In the answer we were advised of the following, in relation to the Government's continuing role in his appointment:

> That advice, including the opinion of the Crown Solicitor, confirmed that at the conclusion of his current employment in October 1998, Mr Guerin would remain entitled to some position in the Public Service at a salary not less than that which applied to his former position of Chief Executive, Department of the Premier and Cabinet. That situation will continue for as long as Mr Guerin remains a public servant.

It goes on and tells us that his current annual costs are something of the order of $150 000. In the final sentence, we are advised in this place as follows:

> The value to the State and the South Australian Government from Mr Guerin's role at the Flinders University is not clear.

It is an absolute disgrace that the Government is forced to pay someone of the order of $150 000 per year and his value to the Government is not clear. When one looks at the history of Mr Guerin as a public administrator we see that he got himself involved in many of the disasters of the Bannon decade. He was involved in the *Ultraman* fiasco; in the West Beach Marineland fiasco; in the Hindmarsh Island bridge fiasco; in the $40 million Justice Information System computer blowout; with the IPL investment with SA Timber; in the failed Patawalonga development; and in going overseas on many occasions at taxpayers' expense with the then Premier, trying to drum up trade—all that in the face of the Arthur D. Little report. He also got himself involved in the city council peace park. Indeed, at one stage one could have been forgiven for thinking that he was the pseudo-Premier of this State and not the former Premier (Mr Bannon).

Indeed, the current position of Mr Guerin would make any retired politician's superannuation look minuscule by comparison. But when one goes back to 8 February 1986, reference is made to the Guerin report, which was a review conducted in 1985 into Public Service management. We have a situation whereby Mr Guerin designed the system that enables him to take $150 000 a year out of the coffers of the State Government and there is little that the State Government can do about it.

The Hon. T.G. Roberts: What did Mr Schilling do about it?

The Hon. A.J. REDFORD: What Mr Schilling took out is infinitesimal compared to the disaster that John Bannon left us. Indeed, Mr Guerin was responsible for the review of the Public Sector Management Act in 1986 which set him into this prime position in which he now finds himself. That, coupled with the sweetheart deal he did with then Premier Arnold in October 1993, will cost the South Australian taxpayer—less than two months before the election—in excess of $1.5 million. That is assuming that Mr Guerin will have the decency to resign from the Public Service in 1998. If he does not, we are stuck with him forever. I think it is an absolute disgrace. Back in 1988 he was the first South Australian public servant to achieve a salary in excess of $100 000.

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

OLD PARLIAMENT HOUSE RESTAURANT

The Hon. ANNE LEVY: I wish to make a few remarks about the appalling treatment meted out by this Government to the proprietors of the Old Parliament House Restaurant. The restaurant was run profitably, comfortably, and was doing very well before the Government made the decision to close Old Parliament House. The announcement meant that immediately business fell by 50 per cent, never rose again, and kept falling. The shenanigans of the Government have led to the proprietors, who were happily running their small business profitably, making a living—not an extravagant one but doing adequately—now being destitute. They have been completely destroyed by the Minister. They have both lost their jobs—and this is a couple with a young family. They have lost their home, which was being auctioned today to pay back debts to the bank. They are unemployed, trying to live on social security.

They kept being assured that they would be looked after. The Minister even wrote a letter assuring their bank that the restaurant would continue and would not be adversely affected by the redevelopment of Old Parliament House and that she wanted the restaurant to continue. I have not the time to go into all the very long story of the negotiations which took place, but the couple has ended up, not bankrupt—they have managed to prevent that—but they have lost their home and their jobs and, despite the Minister saying last September that she would help them get another job, they are both still unemployed. They finally settled for $40 000 compensation. Their lawyers told them they could have achieved far more if had they gone to court but, given the time that going to court would have taken, it would have been three years before a result had occurred. Not only would they have lost their

house but also Mr Lambrinos's mother would have lost her house, and they felt they could not put that financial penalty on their relatives. I will finish by quoting in part from a letter from Mr Lambrinos to the Premier, as follows:

> I believe the Minister and Crown Solicitor have stretched out the process on purpose in order to put us into a very difficult financial position. The Minister made verbal commitments to me as a friend that everything would be all right. I would like to see how she treats her enemies. We went into this dispute seeking a quick result. However, we trusted the Minister and the result is devastating. Even my solicitor told me, 'You have been shafted.'

This is the Government which says it supports small business. This small business couple were clearly Liberals; they will tell anyone that they were Liberal voters. They got no satisfaction at all from this Government, which has utterly destroyed them, and no help at all from their local members when they approached them for assistance. They are completely ruined by this ill-timed decision. The Minister may say that she made all sorts of nice noises that she would help them. The end result is that she has not helped them: she has utterly destroyed them, and I would be very surprised if they remained Liberals.

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

RABBITS

The Hon. M.J. ELLIOTT: I wish to speak about the rabbit calicivirus. In Question Time I have already looked at matters surrounding the release and its totally inadequate handling in South Australia. I have a range of correspondence from experts in the United States talking about caliciviruses more generally, which correspondence underlines the real risks we take when we involve ourselves in biological control and how careful we need to be. I quote David Matson, the Associate Professor of Paediatrics, Microbiology and Immunology at East Virginia Medical School, as follows:

> I am not fundamentally opposed to the release of biologic agents for controlling exotic species. I am opposed to such releases being poorly executed, as was the case of the rabbit haemorrhagic disease calicivirus released in Australia.

Dr Matson hopes that New Zealand will not repeat the mistakes made in Australia. The rabbit calicivirus belongs to a group of viruses of which there are five major subgroups. There is now evidence that four of those five subgroups are capable of infecting humans. The only one that so far has not been shown to infect humans is the rabbit calicivirus, and the rabbit calicivirus is very poorly known. In fact, it has only been known for about 10 years, since it appeared out of nowhere in China. I quote Dr Matson again, as follows:

> The fact that rabbit calicivirus is killing 90 per cent of rabbits is a clue that this agent is new to rabbits. The rabbit population could not survive if 90 per cent mortality was the routine outcome of exposure. We don't know from which species the virus arose. I will say that I do not think that the rabbit haemorrhagic disease calicivirus release will work in Australia or anywhere.

He goes on to other points. When you look at how diverse a range of species is affected by some caliciviruses, you see that one particular group of caliciviruses, which contains the feline calicivirus, infects cats, chimpanzees, sea lions, dolphins, mussels, sea otters and the Aruba Island rattlesnake. The point I am making is that this is one grouping of caliciviruses which can affect anything from marine mammals to reptiles and land mammals and mussels as well—a very wide range. The one group we do not know much about is the rabbits. What has been done in Australia so far? We have tried to infect 28 different species and, on the basis of the knowledge we have gained from that, we started the experiments on Wardang Island, which has now led to the accidental release onto the Australian mainland.

Again I underline that I am not opposed to the use of biologic agents, but the fact is that if we are to do it we must do it with very certain knowledge. It is becoming increasingly apparent that the level of knowledge about the calicivirus was not sufficient for the Wardang Island experiment to have begun, even if it was a good location, which it was not, for other reasons. That point really has to be underlined. It is not the question of the accidental release; it is the fact that they were even carrying out that particular experiment at that time which is of major concern.

The Hon. T.G. Roberts: Can it mutate?

The Hon. M.J. ELLIOTT: As far as the rabbit calicivirus is concerned, we do not know; it has been known of for only 10 years. We believe now that it has come from some other species. We do not even know what that species is, but the very high mortality rate among rabbits indicates that it is capable of jumping species barriers. That has happened with other caliciviruses. A calicivirus currently affecting cats apparently jumped over from sea lions some 20 years ago, so we do know that they are capable of jumping across these barriers. I was very careful at the beginning not to make allegations about the fact that humans or other animals could be affected, because I had no evidence. What we are now getting from a number of experts from the United States is that caliciviruses—not this particular virus but other caliciviruses—occur across a wide range of species and can cross to other species, and there is even reason to believe that the rabbit virus itself has done so. Due care has not been taken, and my criticism of the Government is for its lack of due care.

EAST ASIA RELATIONSHIP

The Hon. BERNICE PFITZNER: The matter of importance I want to speak about is our relationship with East Asia. It is a topic which was focused in my thoughts when I came across a report of Mr Keating's trip to Kuala Lumpur in Malaysia, and in particular a photograph in the *Sydney Morning Herald* on 20 January this year showing Dr Keating and Dr Mahathir (as we know the Malaysian Prime Minister) toasting each other's health. In the picture I believe the faces of the two men reflect their unease, showing their downcast eyes and tight-lipped expression, but we hear that the trip was a qualified success. This picture certainly does not sustain that conclusion. We now hear further that in this current election campaign Mr Keating is casting aspersions on Mr Howard as not being as capable as himself at communicating with East Asians.

These aspersions were soundly refuted by the Asian community in Sydney, as was reported in articles in the *Weekend Australian* and the *Sydney Morning Herald*. Recently I asked a senior and very influential businessman from Kuala Lumpur what Dr Mahathir thought of us Australians. He looked at me quite quizzically and did not reply. After a few days, I received from him a book entitled, *The Voice of Asia*, published in 1995, in which Mr Mahathir says of Australia, in a chapter entitled, 'Western Modernism versus Eastern Thought':

> In recent years, Australia has emphasised its ties with East Asia, seeking in various ways to associate more closely with the region. However appropriate geographically it may be to include Australia

as part of Asia, we have never regarded Australians as fellow Asians. And they have always considered themselves basically Europeans. Consequently, I tell Australians this: You can't simply decide to be an Asian. You must have an Asian culture. This means from a start changing your attitude and improving your manners. Asians do not go around telling others what to do, but do not think that a change of heart will be enough. When Europe was rich, you were Europeans, [Mr Mahathir says] and now that Asia is rich, you want to be Asians. You can't change sides just like that. My point is that regional unity takes time. Anything that can be attained quickly should be regarded with suspicion.

With these thoughts and knowledge in mind, it does seem to me ridiculous that Mr Keating, after one short trip, makes himself out to have great acceptance of himself by Malaysia. I would say he has made a cautious and rather tenuous start and, with his word 'recalcitrant' still ringing in their ears, Mr Keating should not be too cocky in making favourable comparisons of himself against Mr Howard.

Yes, we must make closer ties with East Asia, as this State Government has done and is doing. However, we should not do so by means of the Keating way, which is a short instant visit and a comment that is seen by East Asians to cause conflict between our national leaders, rather than approaching the task in a bipartisan way. The Keating way will certainly make it harder to achieve the goal of friendship with East Asia. We need to have a long-term and bipartisan strategy in networking with East Asia. As Dr Mahathir states, regional unity takes time.

The PRESIDENT: Order! I remind members on my left that there is a good lobby out there and, if they want to chat amongst themselves, I suggest that they go out there. It is very disruptive in the Chamber, and for *Hansard*, when members constantly talk. Interjections that come and go are not so bad, but when members talk loudly amongst themselves, it is very difficult for others to hear the debate.

The Hon. T.G. Cameron interjecting:

The PRESIDENT: Order! The Hon. Ron Roberts.

SAMCOR

The Hon. R.R. ROBERTS: I wish to refer to the conclusion of employment for workers at Samcor. I highlight once again the cruel and heartless way that this Government treats its employees. The workers at Samcor have for 20 years suffered the slings and arrows of the Liberal Party and the criticisms about their performance in this very arduous industry where they have worked diligently for many years and provided a critical service to South Australians, specifically to the meat and farming industries. Having suffered all those slings and arrows over many years, there has been a situation in meat production in Australia whereby it has been very costly and very hard to rationalise. At a time when the Stoeckel report shows that imports into China, which used to carry a tariff of 28 per cent, are now to be dropped to about 8 per cent, it seems that this Government feels that it is time to divest itself of this crucial industry, namely, Samcor, in South Australia.

On 15 December 1995, tenders for the sale of Samcor closed. Employees were informed on 10 January 1996 in a memo from Samcor that they would not be eligible for public sector targeted voluntary separation packages. The memo tried to justify this decision, which I believe is wrong, by repeating a few untruths, and stating that Samcor employees are not public servants—that is actually true—and that there is no relationship between the public sector and Samcor employees—that is untrue—and, as stated previously, Samcor employees are not Public Service employees. They have this mixture and think that by repetition they will change the truth. The memo claims that the awards, contracts and agreements covering the employees meant they were not public sector employees and therefore not entitled to targeted voluntary separation packages (TVSPs).

The TVSPs available to other public sector employees include the following features: eight weeks pay plus three weeks salary for each year of service, with a maximum payment equivalent to two years salary if employees resign and separate within four weeks of being made an offer. The maximum available under the Samcor offer to its employees is four weeks salary, and five weeks for those who are over 45 years of age, plus two weeks salary for every year of service, with a maximum payment equivalent to one year's salary—approximately half. If employees did not accept this offer, half that normally applying to other public sector employees, they were informed by Samcor as follows:

> Failure to agree would leave Samcor with no alternative but to apply the redundancy entitlements set out in awards.

Members may think that is reasonable, but we have to remember that in 1984, in an endeavour to try to maintain an industry at Samcor, there was a change in the award conditions—not a change in the function that was being performed by Samcor, but they agreed. It was their first entry into enterprise bargaining. After that cooperation, quite clearly they are being kicked hard because of that experience. I am sure it is an experience of contracts and Liberal Government employee relations that this particular group of workers will not carry on with.

Clearly, the Commissioner for Public Employment in his South Australian Public Sector Workforce Information Report as at June 1995 defines the public sector in the following manner:

> The South Australian public sector is essentially defined as a combination of bodies established under legislation and others that the Government controls or is theoretically able to control through various mechanisms.

There is much more information, but time will not permit me to read all the other reinforcing information. Quite clearly, if these people are not part of the public sector, and the Act that established Samcor clearly defines that they are under the control of the Minister, if they are not controlled by the Government and therefore are not public sector employees, one only has to ask the question,' Who will sell Samcor?' Obviously it is the Government. It is an outrage that this Government sees fit to treat its employees in such a shabby manner.

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

STATE POPULATION

The Hon. L.H. DAVIS: I wish to speak about State population. South Australia was settled by Europeans in 1836. The State population increased very sharply in the period following the discovery of copper at Kapunda and Burra. In the period 1846 to 1851 the population growth was 37 per cent per annum. I seek leave to have incorporated in *Hansard* tables of a statistical nature relating to State population in the period 1844 through to the present time, and components of population change since June 1991.

Leave granted.

State Population

Date		Persons	Average Annual Increase
1844	26 February	17 366	..
1846	26 February	22 390	14.47
1851	1 January	63 700	36.90
1855	31 March	85 821	8.68
1861	8 April	126 830	7.96
1866	26 March	163 452	5.78
1871	2 April	185 425	2.69
1876	26 March	212 528	2.92
1881	3 April	275 344	5.91
1891	5 April	315 212	1.45
1901	31 March	358 346	1.37
1911	3 April	408 558	1.40
1921	4 April	495 160	2.12

State Population

Date		Persons	Average Annual Increase
1933	30 June	580 949	1.44
1947	30 June	646 073	0.80
1954	30 June	797 094	3.34
1961	30 June	969 340	3.09
1966	30 June	1 094 984	2.59
1971	30 June(c)	1 200 114	..
1976	30 June	1 274 070	1.23
1981	30 June	1 318 769	0.70
1986	30 June	1 382 550	0.97
1991	30 June	1 446 299	0.92
1992	30 June	1 457 595	0.78
1993	30 June	1 462 894	0.36
1994	30 June	1 469 784	0.47

Components of Population Change since 30 June 1991

	Natural Increase		Estimated overseas migration		Estimated interstate migration		Population increase	
Year ended 30 June	Number	Rate	Number	Rate	Number	Rate	Number	Rate
1991	8 767	0.61	4 619	0.32	1 545	0.11	14 931	0.99
1992	8 532	0.59	2 897	0.20	-133	-0.01	11 296	0.78
1993	8 403	0.58	1 546	0.11	-4 650	-0.32	5 299	0.36
1994p	8 230	0.56	2 126	0.15	-3 466	-0.24	6 890	0.47

The Hon. L.H. DAVIS: The first of these tables shows that South Australia's population reached 500 000 in about 1922. It reached one million in 1963, but it is still yet to reach 1.5 million. There has been a dramatic slowdown in population growth over the past few years, and the second table indicates this phenomenon. In the year to 30 June 1991 our population increase from all sources—natural increases and overseas migration, after taking into account interstate migration—was of the order of 1 per cent. The most recent figures indicate that South Australia's annual population growth has fallen to about .4 per cent.

Of particular concern to me is the diminution in population in regional South Australia. If one looks at the period 1986 to 1994, it can be seen that over this eight year period there was about a 6 per cent fall in the population in the statistical division of Eyre, which takes in Lincoln and the West Coast, and a similar fall of about 6 per cent in the statistical division of Northern, which incorporates Whyalla, Pirie, Flinders Ranges and the Far North. I seek leave to incorporate in *Hansard* a statistical table entitled 'Estimated Resident Population of Statistical Divisions and Subdivisions'.

Leave granted.

Estimated Resident Population of Statistical Divisions and Subdivisions

Statistical Division and Subdivision	Persons at 30 June		
	1986	1991	1994
Adelaide			
Northern	295 675	321 287	333 224
Western	214 020	213 035	210 512
Eastern	213 928	216 562	216 509
Southern	279 925	306 277	316 189
Total Adelaide	1 003 548	1 057 161	1 076 434
Outer Adelaide			
Barossa	33 686	38 425	41 140
Kangaroo Island	4 224	4 134	4 099
Onkaparinga	22 852	26 146	29 501
Fleurieu	21 329	24 495	27 510
Total Outer Adelaide	89 091	93 200	102 250
Yorke and Lower North			
Yorke	23 772	24 322	24 729
Lower North	19 445	19 559	19 971
Total York and Lower North	43 217	43 881	44 700
Murray Lands			
Riverland	33 427	34 426	34 213
Murray Mallee	32 158	33 017	32 715
Total Murray Lands	65 585	67 443	66 928
South East			
Upper South-East	19 706	19 374	18 684
Lower South-East	43 420	43 481	43 360
Total South-East	63 126	62 855	62 044
Eyre			
Lincoln	28 101	26 817	26 584
West Coast	6 826	6 348	6 140
Total Eyre	34 927	33 165	32 724
Northern			
Whyalla	28 899	26 891	25 044
Pirie	28 587	28 014	27 311
Flinders Ranges	24 341	22 998	21 989
Far North	8 229	10 691	10 360
Total Northern	90 056	88 594	84 704
TOTAL STATE	1 382 550	1 446 299	1 469 784

Source: S.A. Yearbook 1996.

The Hon. L.H. DAVIS: The table shows that, whereas there has been a 7.5 per cent increase in Adelaide's population in that eight year period between 1986 to 1994 there has been a declining population in Eyre and Northern. That also is reflected in the fact there was, in the period 1971 to 1991, a 21 per cent decline in population in Whyalla and a 5.5 per cent decline in population in Port Pirie. In that same period there has been an explosion in Mount Gambier which has had a 40 per cent increase in population, along with a 15.5 per cent increase in population growth in Port Augusta from 1971 to 1991, although in recent times there has been a reduction in those numbers. I seek leave to have incorporated in *Hansard* a statistical table relating to towns with the highest population in South Australia between 1971 to 1991.

Leave granted.

Population Statistics for South Australia

1. The five towns with the highest population in South Australia over time.

Census	Towns	Populations
1971	Whyalla	32 109
	Mount Gambier	17 934
	Port Pirie	15 456
	Port Augusta	12 224
	Port Lincoln	9 158
1986	Whyalla	26 900
	Mount Gambier	20 813
	Port Pirie	13 960
	Port Augusta	15 291
	Murray Bridge	11 893
1991*	Whyalla	25 526
	Mount Gambier	25 153
	Port Pirie	14 595
	Port Augusta	14 110
	Gawler	13 835

The Hon. L.H. DAVIS: The other point is that, since 1920, there have been more people living in metropolitan Adelaide than in non-metropolitan Adelaide. But in the period from 1836 through to 1920 there were more people by far living in the non-metropolitan area, and there has been a steady decrease in people living in rural/regional South Australia since 1920. That is reflected in the final statistical tables which I would like to have incorporated in *Hansard*.

Leave granted.

Statistical Local Areas in South Australia Experiencing Greatest Percentage Decline

Statistical Local Area	SLA type	1986	1991	1986-91 % change	Rank	Australia rank
Unicorp. Flinders Ranges	Rural	3094	2486	-19.65	1	7
Streaky Bay	Rural	2303	1971	-14.42	2	14
Kimba	Rural	1560	1339	-14.17	3	16
Elliston	Rural	1515	1305	-13.86	4	17
Le Hunte	Rural	1992	1744	-12.45	5	27
Pinnaroo	Rural	1330	1172	-11.88	6	30
Coonalpyn Downs	Rural	1821	1606	-11.81	7	31
Bute	Metro	1203	1073	-10.81	8	39
Luncindale	Rural	1660	1489	-10.30	9	42
Thebarton	Metro	8730	7874	-9.81	10	46

Source: ABS Estimated Resident Population data 1986-91

Persons in Urban and Rural Areas

Census	Urban Adelaide (a)	Other (b)	Rural	Total (including migratory)
1971	809 482	183 187	179 148	1 173 707
1976	857 196	198 777	187 546	1 244 756
1981	882 520	207 934	193 628	1 285 033
1986	917 000	221 036	205 625	1 345 945
1991	957 480	235 088	207 535	1 400 622

(a) Urban Adelaide is a subset of the Adelaide Statistical Division.

(b) Other Urban comprises clusters of 1 000 or more persons and a number of holiday resorts which are regarded as urban on a dwelling density basis.

The Hon. L.H. DAVIS: This table shows that there has been steady growth in Adelaide and in outer Adelaide, the peri-urban area, taking in the Barossa and the Fleurieu Peninsula, but very little growth in rural South Australia over the past 20 years. Of concern, which I think was highlighted in the Social Development Committee's inquiry into rural poverty recently, is the ageing nature of the farming population in South Australia. It is true to say that the average age of farmers in South Australia is 57 years. It is of concern that there has been a shrinking in—

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

SCHOOL SERVICES OFFICERS

The Hon. CAROLYN PICKLES: Today I direct my remarks to the issue of school services officers. I want to highlight briefly this Government's latest cynical exercise in relation to the whole saga of SSOs. This Government has axed effectively 500 people, or 250 full-time equivalents, and this has angered parents and the whole school community. The Minister recently issued a circular to principals regarding the Federal Government's funded Job Skills Program which, in part, states:

> The Commissioner for Public Employment has provided up to 150 positions in the Department for Education and Children's Services to be involved in the 1996 Job Skills Program. Details of the program are outlined in the attached information, 'An Outline of the Job Skills Program'. It is anticipated that a number of schools may wish to be involved in the training program in the areas of school services officer, administration/clerical, classroom support, library, special programs, behaviour modification (metropolitan only), laboratory assistant (metropolitan only).

I stress that I strongly support these youth training programs. The two trainees who are attached to the Opposition in the Legislative Council are doing a terrific job gaining work skills, and I hope that they will go on to gain permanent employment. What this Government is suggesting to schools in this circular is that positions held by trained people which have been axed by the Government can now be filled by untrained people; and the positions which were funded by the State Government have been fobbed off to be paid for by the Federal Government. These positions were mainly held by women, and we now have a situation where young people will be taking away the jobs of women, who are often parents of children at the school in which they work.

Yesterday the Minister challenged me to prove that the State Government had promised the Federal Government that at least 80 per cent of trainees funded by the Commonwealth would be offered permanent positions at the completion of their training. In a document entitled 'Proposal: 1 500 Traineeships in the State Public Sector' Minister Such outlined the proposal for traineeships with funding from the Federal Government of about $8.9 million. This proposal was accepted by the Commonwealth, and contained in it was a section entitled 'Sustainable Employment' which states:

> Of the trainees recruited to date by the State Government 82 per cent have moved into permanent positions within the agencies. It is

expected that 80 per cent of trainees will move to permanent employment following their traineeship. The provision of quality training and support for the trainees will enhance their access to private sector employment.

If that is not a promise, I do not know what is. It is not that the Opposition is opposed in any way—and I stress that—to the provision of these job skills programs. We have been greatly supportive of the Federal Government's initiative and, when we were in government, we supported this scheme in the public sector. However, what I do object to is the sacking of 250 full-time equivalent of trained people, and then expecting untrained people funded by the Federal Government in large part to take their places. I think it is a very cynical exercise by the Government and it is one that I consider should be highlighted.

MEMBER'S REMARKS

The Hon. T.G. CAMERON: I seek leave to make a personal explanation.

Leave granted.

The Hon. T.G. CAMERON: Yesterday during Question Time the Attorney-General accused me of calling the Premier a liar. Subsequently he demanded that I retract the statement and apologise for having made it. Despite having pointed out to the President that I did not make the statement and that I was being incorrectly quoted, I was asked to withdraw, and at the time I felt that I had no choice. If one looks at the transcript, it is quite clear that I never called the Premier a liar. The words I used were, 'But you have told so many lies about other things'. I hoped that the Attorney-General would be here whilst I made this personal explanation, because I was going to ask him to withdraw it. However, it is a little hard to do that when he is not present in the Chamber. Clearly, either the Attorney-General and/or the President genuinely misheard me or it was an attempt to shut me up. I make clear that I did not call the Premier a liar and that the withdrawal and apology that I made to him yesterday was not necessary.

SOCIAL DEVELOPMENT COMMITTEE: RURAL POVERTY

Adjourned debate on motion of Hon. B.S.L. Pfitzner:

That the Report of the Social Development Committee on Rural Poverty in South Australia be noted.

(Continued from 29 November. Page 654.)

The Hon. SANDRA KANCK: I support the motion. I am a member of the Social Development Committee which prepared this report and, while I might be biased because of the work that was put into it, I believe that it is very positive and the actions recommended in it should be taken up. We began this reference in March 1994 and at that point the rural sector was in very dire circumstances. By the time we brought down this report in November 1995 there had been an upturn in the rural sector. Because of that, it could be thought that the recommendations should be ignored, but to ignore them would be quite perilous because the rural sector does follow swings and ups and downs periodically and, while things might be looking good now, some time in the future they will be down again. Therefore, if our recommendations are not acted upon, people in rural areas will be in those dire circumstances again.

Throughout the inquiry witnesses told us that we would not be able to achieve anything, that everything was federally related and, to a large extent, that is true. Many of our recommendations are recommendations to State Ministers to put pressure on Federal Ministers. The success of this report will depend on how diligently our Ministers and Government departments in South Australia follow through with our recommendations to Federal Ministers and departments. One issue in the report that I found somewhat disturbing related to education. The committee, as members will see in the report, did not tackle it. On a number of occasions we received information regarding the cost of sending adolescent children to private schools in Adelaide. On the basis of the information we received, it was not just any private school; they were quite expensive and exclusive private schools.

One person referred to a cost of $15 000 per student per year. The report quotes from that witness as saying that farmers borrow against their assets to do this. Despite that piece of evidence, I still have great difficulty with being told that they are in dire economic circumstances, and yet being given a loan to fund a student's fees at $15 000 per annum. When I raised this issue one member of the committee suggested that some farmers would have family trusts, but if they have family trusts then, surely, they are not poor. We have to be clear about what we mean when we are talking about poverty. I grew up in poverty and attending a private school anywhere was certainly not an option. My parents would not have had enough assets, or anything else, for a bank to grant them the money for me to attend a private school even if I had wanted to do so. There were no discretionary funds; there was no discretionary income.

This is something that I have some difficulty coming to terms with. I am a person who is greatly concerned with issues of social justice in our community. For instance, there are people in Adelaide who have difficulty paying relatively low fees to public schools, and yet farmers can send their children to expensive private schools in Adelaide. There is something not jelling about the claims of poverty and I am not frightened to raise this issue. I recognise that the definition of poverty is a variable one. The committee's interim report spent quite a deal of time discussing this matter. We came to the conclusion that it is very much a relative term. It seems to relate to what is happening around you. I guess that, if everyone else is sending their children to private schools and you cannot send yours, then you are in poverty. Maybe if parents have to obtain a bank loan to send their child to a private school that is poverty. I do not know.

However, in relation to the question of the definition of poverty I liked one of the submissions we received from Marion Richter, Kitty Schiansky and Alistair Christie who are all members of District Council of Yankalilla, although they were not writing on behalf of the council. They made some interesting observations. They said:

The traditional concept of poverty is limited and restricted, since it refers exclusively to the predicaments of people who may be classified below a certain income threshold.

In other words, it is purely an economic measure. They suggest instead that there are all sorts of poverties, including poverties of subsistence, protection, affection, understanding, participation, idleness, creation, identity and freedom. They further said:

. . . to talk broadly of rural poverty is inappropriate—each rural community will have its own unique set of inhibitors.

That is what the Social Development Committee said in its interim report, that it is very much a relative term. However, those three people went on to say:

> We believe, and feel very strongly, that economic growth and development has not and probably will not lead us to a bright, carefree existence. We do believe the limited interpretation of economic growth is an intrinsic part of Australia's and the world's social, environmental and cultural breakdown. The economy must be part of a system that suits the goals, aspirations and fundamental human needs of the community. A different value system!
>
> This reinterpretation of the term poverty requires a huge shift in thinking, but it relates to the fact that the purpose of the economy is to serve the people, not for the people to serve the economy.

The people in South Australia's rural areas have experienced a recent bout of poverty as a result of people having to serve the economy and not the other way around. People in rural areas have been subject to international commodity prices which are beyond their control. They have been subject to banking deregulation and the resulting increase in interest rates which again were beyond their control. These things are examples of where the economy is not serving the people, which is what it should be doing. When those sorts of ingredients are combined with a drought, at any time in the future when that combination arises we again will have a recipe for disaster. Until our economy does serve its people such disasters will continue to occur. But at least if the recommendations of this report are acted upon some of the impacts at a future time may be alleviated. I supported the motion.

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

NIGERIA

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

That this Council, taking into account the standards for fair trial to which Nigeria is committed by its Constitution and by international human rights treaties such as the United Nations International Covenant on Civil and Political rights and noting—

1. the executions on Ken Saro-Wiwa, Dr Barrinem Kiobel and seven other members of the Ogoni community on 10 November 1995 following an unfair and politically motivated trial; and
2. the continued detention of 17 Ogoni community members on 'holding charges';

resolves to convey to the Government of Nigeria its deep concern and in particular to—

1. condemn the executions of the nine Ogoni community members, at least two of whom were regarded as prisoners of conscience detained solely for the non-violent expression of their political views; and
2. calls on the Government of Nigeria to release the 17 Ogoni members detained under 'holding charges' or promptly and fairly try them before a properly constituted court; and

furthermore resolves to urge the Australian Federal Government to convey these concerns to the Nigerian Government through bilateral and multilateral diplomatic channels.

I gave notice that I would move this motion at a time when there was considerable public tension and upheaval about the matter to which it relates. The four points in the motion can only be handled at a Federal level because States cannot make any diplomatic approaches and they can do nothing other than convey their wishes to the Federal Government, and that is what this motion tries to do. It expresses a wish that the Federal Government take action and that, by supporting the motion, the Council shows the Federal Government that we are concerned about the actions of the military Government in Nigeria and that trade and other sanctions be put in place with Federal Government support.

Over the past 30 years, a number of events have broken one's faith in the ability of humanity to advance to a more sophisticated level and to evolve into a more caring and sharing planet, and the events in Nigeria are another example. In the 1960s it was the Vietnam war. In the 1970s, 1980s and 1990s other issues developed. The most devastating event in the 1970s was probably the shooting of the students at the Kent State University, the extension of the Vietnam war and the bombings.

In the 1980s, the British Government declared war on Argentina over a disputed group of islands. We all believed that Britain, which was one of the mothers of democracy, would be able to work out a negotiated settlement with Argentina over that issue, yet a lot of lives were lost in trying to secure British sovereignty over the Falkland Islands. In a lot of cases, the setbacks did not result from the intentions of the people of Argentina, Britain and the Falkland Islands. I am sure that the Falkland Islanders did not want to declare war on Argentina because they did not want to be put in the position where the lives of young service people were put in jeopardy on their behalf. They would have far preferred a negotiated settlement, but a political decision was taken to enhance an electoral position. The war that broke out disappointed a lot of people around the world.

Recently, we have seen the horrific problems in Rwanda and there is a feeling of powerlessness by most people about how that issue is being played out and how the civilians, including women and children, are bearing the brunt of the differences of opinion between the political groups and organisations in that region of Africa. They are the ones who suffer the most. Currently there is the temporary or shaky ceasefire that exists in what was formerly Yugoslavia in the state of Bosnia-Herzegovina. Most of us thought that politics in Europe and the Balkans had evolved to a point where any difference between sophisticated, intelligent and well-educated societies would be able to be settled by negotiation. Unfortunately, that scene was played out in front of our eyes on television.

As a member of humanity, one feels that the evolutionary process of man's (and I use 'man' in a broader sense) conscience and ability to negotiate honourable and reasonable settlements around geographic, ethnic and cultural boundaries has not advanced too far. I make mention also of the running war that is going on in Northern Ireland. If ever a settlement process could be put together between two sophisticated societies, educated societies, it is Ireland, and that is another major disappointment.

In relation to Nigeria and to other disappointments over the past 30 years, there have been a lot of intervening factors, and I would have to throw in the discord in South America and the interference in those sovereign nations by third and fourth parties, and that makes settlement very complicated. The world certainly had its eyes on those nations, and the reporting process that brought those conflicts into our living room made us take notice. If we in Australia felt powerless about being able to provide solutions, there was a feeling among most citizens in our country that the major powers should have been able to influence those outcomes to minimise the pain and suffering that the civilians endured in those civil wars and in the fight for independence by small nations or in the fight for a cause in which those people genuinely believed. Unfortunately, that was not the case in most of those disputes and, although the losses of military personnel were in some cases light, the pain, suffering and losses among the civilians was very high.

When the Nigerian military powers started to impose their authority on a small Ogoni community in that country, it was one of those disputes about which one felt powerless. I also felt that the progress that had been made by the Nigerian democracy over a 40-year period was starting to deteriorate and that the evolutionary process was going backwards. Nigeria was ruled by the British for many years, and it was a colony of Britain until the middle of this century. It was one of the few African nations in which Britain did not use violence or the whip. It educated and democratised the population to the extent that a semblance of a Westminster democracy grew up in Nigeria. With almost 100 million people it was a developed, sophisticated nation, with an economy based on oil, timber and timber products. It had quite a sophisticated economy compared with a number of other African nations. When the decolonisation processes commenced after the British left, the Nigerian democracy held for quite a number of years, and Nigeria was held up as an example of a successful transitionary process of decolonisation.

Unfortunately, as in many cases, once the major coloniser leaves there is generally a power vacuum. If the power vacuum is not picked up by a Government and a sophisticated Opposition, then there is a reversion back to tribal bickering. Unless there is a Government of unity of purpose set up with a constructive Opposition, then unfortunately many of those countries revert to civil wars. I am talking broadly and generally, but there are a number of countries that have been decolonised in the last 60 years that have broken into those characterised stages.

When Nigeria's constitution and human rights record began to be abused by a military Government, then all the signals and signs were on the wall that the military would crack down on any opposition within Nigeria, and the history of opposition by democratic groups against military regimes has been very bad throughout the rest of the planet. Very few democracies have been successful in returning to normal democratic processes—governments against military regimes that do not want to let the reins of power go.

As the forces of democracy rise, the relative power of opposition by the military turns into violence. We have a standard case here in Nigeria where the Ogoni community, in a democratic way, put forward leaders that were challenging the human rights record of the military regimes in Nigeria and the military regimes decided to crack down on the infant democracy. In December, they condemned to death by execution the nine members of the Ogoni community.

The motion came out of that disappointment. It was a disappointment that the military regime was not in a position, or did not find itself in a position, nor did it want to, to indicate a timeframe for return to normal democracy. It certainly was not going to allow the infant democracy, or the forces that were gathering in the infant democracy, to challenge the military regime. They went through what could only be regarded as a farcical trial and then proceeded with the executions against the lobbying powers of all the nations at that particular time. We were exposed to the lobbying of Nigerians and Ogoni tribe members and many other African groups, not only here in Australia but at the recent CHOGM talks in New Zealand. There were approaches made to Nelson Mandela to act on behalf of Nigerian groups to plead for clemency, but, unfortunately, all the pleas that were put forward were unsuccessful.

We are now looking at this motion in retrospect because the executions, the deaths, have occurred. By way of motion from this Council, we are now seeking support for the motion as it stands to encourage the Federal Government to at least make efforts to try to get a negotiated peaceful settlement in Nigeria, to get the regime in Nigeria to set up a system of government that involves not the military but a system of government which is civilian based and which is not based on fear—power by the military over civilians.

We have moved motions of this nature before in this Council. We have been able to have them carried with tripartisan support. We have been able to signal to migrant groups within this State that we are, at least, aware of the situation in their countries of origin; that we are prepared to stand up for democracies in other countries where they are unable to stand up for their own rights; and we are able to sponsor and champion causes through the United Nations so that democracy and peace can, at least, be a consideration. I recall that we have moved motions in this House in relation to the South African situation and the East Timorese situation. We were able to move them forward and have our expressions taken to Canberra.

I commend the motion to the Council. I move it in the same way as we did the East Timorese and the South African motions to show in a tripartisan way that we can move motions forward from this Council, and we hope we can revive the once great democracy that was alive and well in Nigeria and, hopefully, show those Nigerian migrants living in South Australia that there are people on their side.

The Hon. SANDRA KANCK secured the adjournment of the debate.

ELLISTON SIGNS

Order of the Day, Private Business No. 6: Hon. R.D. Lawson to move:

That the District Council of Elliston By-law No. 4 concerning Signs (Permanent and Moveable) made on 7 July 1995 and laid on the Table of this Council on 27 September 1995, be disallowed.

The Hon. R.D. LAWSON: I move:

That this Order of the Day be discharged.

The by-law to which this motion refers was thought by the Legislative Review Committee to be unsatisfactory. The committee communicated with the District Council of Elliston whose advisers readily agreed that the by-law was, in fact, inappropriately framed. The district council agreed to repeal the by-law and pass a new by-law. That has now been done.

Order of the Day discharged.

FISHING, NET

Order of the Day, Private Business, No. 7: Hon. R.D. Lawson to move:

That the regulations under the Fisheries Act 1982 concerning a ban on net fishing, made on 31 August 1995 and laid on the Table of this Council on 26 September 1995, be disallowed.

The Hon. R.D. LAWSON: This motion relates to the regulations made under the Fisheries Act concerning a ban on net fishing and other matters. I will be moving shortly that this Order of the Day be discharged. Before doing so, however, I should mention to the Council that the Legislative Review Committee conducted a reasonably extensive inquiry into these regulations. The committee heard evidence from a number of witnesses representing a number of different interests in the fishing industry. It heard from members of the

Port Augusta Fish Advisory Committee, from a number of members of the South Australian Amateur Fishermen's Association, from commercial net fishermen in Port Lincoln and Cowell, and also from the member for Eyre and members of the staff of the Fisheries Office of the Department of Primary Industries.

The committee also received a number of submissions, not only from the witnesses mentioned but from others. In consequence of its deliberations the committee reported, which report was tabled, in accordance with the provisions of the Parliamentary Committees Act, out of session on 18 December 1995, when it was delivered to the Presiding Officers. The conclusion recommendations are set out in the report of the committee, and I should indicate to the Council the general nature of those conclusions.

Four matters were raised in evidence to the committee. The first was the ban on recreational fish nets. The committee considered that there were substantial arguments both for and against the imposition of that ban. The committee felt that the arguments in favour of the ban were by no means overwhelming because, as the committee acknowledged, there had been insufficient research to determine the quantity of fish taken in recreational nets and their effect on line fishers. On the other hand, the committee noted that a powerful argument can be made that there should be equity of access to all recreational fishers and that a freeze that had been imposed by Minister Mayes some years ago on the issue of new net registrations had conferred on the existing holders a privilege that was resented by many line fishers and many others who wanted to get into the net fishing recreational activity but who were unable to do so.

The committee heard evidence that recreational net fishing is not generally permitted in fisheries in other parts of Australia. The Legislative Review Committee noted that this was essentially, in its view, a matter of policy. The Minister had adopted a particular policy in implementing the recreational netting ban. To some extent, that ban represented the expropriation of a privilege that was previously enjoyed by a number of citizens in our State. However, the committee was informed that registration fees for nets were being refunded to those who seek a refund. Ultimately, the committee was evenly divided on the appropriateness of the ban. Three members of the committee were satisfied that the new regulations were an appropriate response to an undoubted problem; the remaining members considered that the ban should not have been imposed before the conclusion of a study being conducted by SARDI.

The next matter that was the subject of consideration was the closure of Coffin Bay to netting, and the committee was unanimous in believing that that closure could be justified in the interests of maintaining the stock of King George whiting and retaining Coffin Bay as a centre for recreational line fishing.

The Hon. R.R. ROBERTS: On a point of order, Mr President, the motion is that it be discharged.

The Hon. R.D. LAWSON: This is somewhat unusual. I move:

That Order of the Day, Private Business, No. 7 be discharged.

I regret that I did not formally move the motion initially. In speaking in favour of the motion I am explaining to the Chamber the reasons for its discharge. I mentioned briefly the conclusions of the committee in relation to the closure of Coffin Bay. The third issue dealt with by the committee was the closure of Franklin Harbor to netting, and in relation to that matter the Legislative Review Committee accepted that the new regulations did have a devastating effect on the sole remaining net fisher in the Franklin Harbor area. The committee was very concerned by the apparent hardship in that case. Opinions might differ about the appropriate response to it, but the committee considered that the issue was not whether one particular fisher ought to have, in effect, an exclusive right to continue netting in a particular place.

The Hon. T.G. Roberts: What was he catching?

The Hon. R.D. LAWSON: He is catching a quantity of King George whiting, and the issue as the committee saw it was the protection of fish stocks, equity of access and whether or not the new regulations were an appropriate exercise of the regulation making power in so far as it applied to Franklin Harbor. The committee noted that the Netting Review Committee, which the Minister had appointed, had not recommended a total closure of the Franklin Harbor, but the committee considered that it should not seek to interfere in a policy decision of the Government that was made within the regulation making power.

Finally, the question of the size limit of King George whiting in the Port Augusta area was considered. As I mentioned, a number of witnesses were heard by the committee on that. Although the members of the committee were sympathetic to the situation faced by some commercial fishers and recreational line fishers from Port Augusta, it did not consider that a lower size limit for King George whiting in that area was a feasible proposition.

The Hon. M.J. Elliott: Why not?

The Hon. R.D. LAWSON: The Hon. Mike Elliott says 'Why not?' Evidence was given in this case by fisheries officers that it would be extremely difficult to police lower size limits for a species such as King George whiting in one particular area. It is obvious that, whenever a person was apprehended, wherever in the State, for having in his or her possession a fish of a lower size, the fisherman would claim that that catch was made in the Port Augusta or whichever area. The evidence was quite clear on this point: that enforcement of differential limits is simply not feasible. The Legislative Review Committee accepted that evidence. If other members are aware of other evidence, no doubt they will be happy to present it to the Chamber in due course. The Legislative Review Committee noted that the data relating to the size and quantity of fish being taken in the Upper Spencer Gulf was not sufficient to make a special case at that time. For those brief reasons, the Legislative Review Committee reached the decision that it did in its report tabled on 18 December.

The Hon. P. HOLLOWAY: My colleague the Hon. Ron Roberts has a motion on a similar matter listed on the Notice Paper, and I guess that is where the substantive debate on this issue will take place. However, on this occasion I should put my views on record. I think they were also the views of other Opposition members who were members of the Legislative Review Committee that took evidence on the question of the ban on net fishing. Certainly, this was a difficult issue. Part of the problem we faced was that there was a lack of hard scientific evidence in relation to a lot of these matters, and the Hon. Robert Lawson has already referred to that. The main difference of opinion that Opposition members had on this matter was over the question of the ban on recreational net fishing. It is clear to us, and I think it would be clear to anyone who reads the evidence from this committee when it is released, that perceptions and certain political pressures

played a fair part in bringing about the ban on net fishing. I think that was conceded by some of the fishery officers. It is a difficult issue, and the problem we faced was that there was no real scientific evidence, so the view that other Opposition members and I took was that we should disallow the ban on net fishing until the completion of the SARDI report, which I think is due in June 1996.

In relation to some of the other matters, such as the size limit on King George whiting, we believed there was clear evidence that the size limits that were imposed in the original regulations should be accepted. While we did have some sympathy with the fishers from Port Augusta, we concurred in the Hon. Mr Lawson's comments that it would bring about all sorts of practical difficulties in trying to police a different size limit in one part of the State compared with the rest of the State, so we believed on balance that the size limits for King George whiting in particular should remain.

The only other matter of concern to us related to the closure of Franklin Harbor for commercial fishing. As is recorded in the report, we felt that the one remaining fisher in that area was rather harshly dealt with in relation to that ban. With those brief comments, I indicate that we will not oppose the discharge of the motion at this stage, but no doubt this matter will be revisited when the Hon. Ron Roberts's motion is debated later.

Order of the Day discharged.

MALLALA SIGNS

Order of the Day, Private Business No. 14: Hon. R.D. Lawson to move:

That by-law No. 2 of the District Council of Mallala concerning moveable signs, made on 17 July 1995 and laid on the table of this Council on 26 July 1994, be disallowed.

The Hon. R.D. LAWSON: I move:

That this Order of the Day be discharged.

This concerns a by-law of the District Council of Mallala which was thought by the Legislative Review Committee to be in an unacceptable form. The council was notified of that fact and agreed to amend its by-law, and that amendment has now been made.

Order of the Day discharged.

MOUNT GAMBIER SIGNS

Order of the Day, Private Business No. 15: Hon. R.D. Lawson to move:

That by-law No. 2 of the Corporation of the City of Mount Gambier concerning moveable signs, made on 20 July 1995 and laid on the table of this Council on 26 September 1995, be disallowed.

The Hon. R.D. LAWSON: I move:

That this Order of the Day be discharged.

I indicate to the Council that, as with the item just dealt with, this by-law contained objectionable material which the council concerned agreed to remove. That removal has been done. The same comment applies in relation to Orders of the Day, Private Business, Nos. 17 and 18, so I will not repeat it when they arise.

Order of the Day discharged.

SALISBURY SIGNS

Order of the Day, Private Business, No. 17: Hon. R.D. Lawson to move:

That by-law No. 2 of the Corporation of the City of Salisbury concerning moveable signs, made on 24 July 1995 and laid on the table of this Council on 26 September 1995, be disallowed.

The Hon. R.D. LAWSON: I move:

That this Order of the Day be discharged.

Order of the Day discharged.

SALISBURY LAND

Order of the Day, Private Business, No. 18: Hon. R.D. Lawson to move:

That by-law No. 4 of the Corporation of the City of Salisbury concerning council land, made on 24 July 1995 and laid on the table of this Council on 26 September 1995, be disallowed.

The Hon. R.D. LAWSON: I move:

That this Order of the Day be discharged.

Order of the Day discharged.

LOCAL GOVERNMENT FINANCE AUTHORITY (REVIEW) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 22 November. Page 546.)

The Hon. M.J. ELLIOTT: This matter has been carried over from the last session. Late in November I had drafted some amendments to this Bill. I was not happy with the form in which it first came into this place, and I circulated those amendments to the Local Government Association. I did not proceed to put those amendments on file, but I understand that since that time the Local Government Association has been meeting with the Minister outside of this place to try to solve the difficulties involved with this Bill. I understand that those negotiations at this stage are still proceeding, although the Local Government Association has said to me that they have probably had more consultation with this Minister than they had with the previous Minister over a much more considerable period of time. When one considers the problems we had last year with other local government legislation, that at least is a promising sign in itself.

I understand at this stage that agreement has not been reached, but talks are still proceeding. I was going to put on file the amendments which I had drafted last November but, in talking to Parliamentary Counsel, I understand that the amendments that have been put on file today by the Hon. Mr Holloway in fact incorporate all the matters that were going to be addressed by my amendments. In that case, it really seemed somewhat redundant to put mine on file. I was not happy with the Bill as it stood, but the amendments which I understand that the Hon. Mr Holloway has put or is about to put on file are substantially the same as those that I intended to introduce. However, if the Government is able to resolve the matter outside this place with the Local Government Association in a different manner to that covered by my amendments, I would be prepared to support such an agreement.

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

EXPIATION OF OFFENCES BILL

Adjourned debate on second reading.

(Continued from 29 November. Page 663.)

The Hon. CAROLYN PICKLES (Leader of the Opposition): The Opposition supports the second reading of this Bill. The Labor Government promoted the system of expiable offences in the late 1980s. This Bill continues the work of the previous Government and, generally speaking, the Opposition supports a continuing commitment to keeping people out of the court system if they are alleged to have committed only the most minor offences. It is staggering to think that there are now more expiation notices issued than there are other types of offences reported. Advances in technology, particularly with respect to the detection of traffic offences, have largely contributed to this growth in expiation notices, plus the fact that a number of offences expiable by payment of expiation fees have increased.

In relation to this legislation, the Opposition was privileged to receive a draft Bill with a reasonable amount of time to enable it to analyse and comment on the Bill. Some of our objections to the provisions drafted in the Attorney-General's Department some time ago have not been met in the final form of the Bill, and we will therefore be moving several amendments.

While we support the principle underlying the Bill and the general approach that has been taken, we take issue with the following points. We will be moving to delete clause 9(7)(c), whereby the Registrar of the court is prevented from making an order for community service if the alleged offender is able to pay the due amount in instalments. The great difficulty with a provision such as this is a subjective assessment that will be made by the Registrar or the person acting on the Registrar's behalf in any given case. Who is to say whether the alleged offender is able to pay or not able to pay a sum of, say, $200 in instalments?

The provision potentially renders redundant the option of community service because, if a literal approach is taken, very few members of the community could not pay an expiation fee in instalments over a period of one, two or more years. There seems to be no time limit on the length in which an instalment can be made to pay the total expiation fee.

By deleting clause 9(7)(c), it will be clearly left to the Registrar as to whether an order for instalment payments or community service is made, assuming that the Registrar is satisfied that the applicant or dependants of the applicant will suffer hardship on the basis that full and immediate payment of the expiation fee was required. In many cases the hardship of the applicant will have a strong preference for either instalments of payment or community service work. Why should those preferences not be taken into account by the Registrar? If the options for the community service work are effective in the sense that they produce valuable contributions to the maintenance and improvement of public places or buildings, why should it matter to the State whether the hardship applicant pays the full expiation fee by instalments or works off the fee by appropriate community service? The Opposition considers that the Registrar's discretion should be restricted as clause 9 in its present form would do.

Secondly, the Opposition has considered the finality of a court's decision in the event that the recipient of an enforcement order applies for a review of the order to the court pursuant to clause 14 of the Bill. The Opposition is particularly concerned about subclause (6). What happens if a magistrate confirms an enforcement order on spurious or erroneous grounds? It is possible for magistrates to make mistakes. In the exercise of the court's review of an enforcement order, it is possible that there may be a mistake.

The outcome of the review as far as the applicant is concerned is that the State will extract money from the applicant by threatening force if necessary, in the sense that people can be incarcerated for non-payment of fines, and the enforcement order has the effect of a court imposed fine. There also is the serious consequence of a criminal conviction being recorded against the applicant. These are serious matters and they need to be opened to review by a higher court if a person alleges a defect in the way that the Magistrates Court or Youth Court (as the case may be) has dealt with the review of the enforcement order.

Therefore, clause 14 should make it clear that the decision of the court in relation to the enforcement order is a judgment which is capable of appeal pursuant to section 42 of the Magistrates Court Act. Arguably the magistrate's decision is subject to judicial review in any case, but from the point of view of the Opposition it would be preferable to allow an appeal because the decision in relation to the enforcement order is a final decision by the court with potentially serious consequences for the citizen concerned.

There will be a third amendment sought by the Opposition. In relation to clause 16 the Opposition is not entirely happy with the provisions permitting an expiation notice being withdrawn for the purposes of prosecuting the alleged offender. It could be unfair in some cases for citizens to be prosecuted if they have developed reasonable expectations that a particular matter has been finalised. Therefore, we are consulting Parliamentary Counsel as to how our concerns can be best addressed.

The Opposition generally welcomes the introduction of this Bill. We believe that it will lead to greater fairness for a greater number of people who will be faced with expiation notices in future. Therefore, we support the second reading.

The Hon. R.D. LAWSON: I, too, support the second reading of this Bill. In September 1993, the then Government established the enforcement of fines working group, which was asked to coordinate the development of options for fine enforcement including revenue, social justice and legal implications. The group was comprised of representatives from a number of Government agencies. The work of the group continued after the election in December 1993, and its report entitled 'Proposed Fines and Infringement Notices Enforcement Scheme' was published in May 1994. In the following month the Attorney-General exposed the report for community comment.

The report noted a situation which had arisen and which clearly required legislative amendment. It noted that in the last financial year before the publication of the report, namely, the year ended 30 June 1993, revenue statistics listed some 150 Acts of Parliament, both State and Federal, under which some 144 601 fines were paid with a total revenue exceeding $32 million. In the same period, approximately $8 million in potential payments were written off to imprisonment or community service, covering almost 45 000 cases. The report noted a high level of prison admission in consequence of fine defaulting and the fact that this State then had a fairly high rate of prison admission for fine default compared to other States.

The report noted that the use of expiation notices for minor breaches of the law had increased in recent times, the largest number of expiation notices being in the traffic infringement notice system. The expiation notice system enables persons to avoid a court hearing and the Government the cost of administering large numbers of court hearings by

payment of an administrative fee whilst, at the same time, retaining the individual's right to contest the matter in court. Those facts remain the same, and the right of an individual to contest the matter in court is protected under this new legislation which is, in my view, an important protection.

The authors of the report noted that the then expiation notice system did not, of its nature, provide for persons who were not able to pay the expiation fee by the due date. There was inadequate provision in the previous legislation to cover those who were unable to pay, and clearly that was something that had to be addressed. All members of Parliament will be aware, as a result of complaints from constituents, of cases where hardship arose in consequence of the expiation system.

Under the scheme which exists up to the time of this legislation and which is about to be replaced, persons who are unable to pay must proceed to an uncontested court hearing, pay the attendant court fees and there avail themselves of the right to apply for permission to pay off the fine (which by this stage is an increased fine) by time payment. So, the flexibility in the court system was noted but there was inflexibility in the expiation notice system.

The committee, in reaching its proposals and recommendations, stated in its report that it had attempted to balance a number of principles. Those principles were stated in the report, not in any order of precedence, as follows: First, there is the high cost to Government of fine enforcement. It was noted by the committee—and I agree with the proposition—that the cost to Government of enforcing fines should be minimised. The authors of the report next noted that a socially just fine enforcement system should provide, at first instance, payment options for those suffering real and severe hardship. That is a principle with which I agree and it is a principle which, in my view, the proposed legislation satisfies. It was next stated that any enforcement system should be consistent and predictable, with clear guidelines for those administering payment options and clear information provided to the so-called 'clients of the system'. I think that one of the satisfactory elements of the proposed legislation is that it does lay out in fairly clear terms the new system.

It was suggested by the authors of the report that one principle was that the fines system should engender respect by ensuring that the community at large is informed of the social good to which fines revenue is put, the options available to those in severe hardship and the consequences of refusal to pay. I think that some of those principles have been met in the current legislation; I am not sure that it is possible to achieve them all. It was finally concluded that a principle which the authors were attracted to was one that sought to establish a balance between incentives and disincentives or threats.

The committee recommended that credit card facilities be provided for persons paying expiation notices and that has clearly been established in the proposed legislation, at least for those agencies that provide credit card facilities. No doubt the major agencies issuing expiation notices will have credit card facilities available. I ask the Attorney to address in his remarks the extent to which credit card facilities are presently available in agencies and whether any direction will be given to agencies to establish credit card facilities if they are not already established. The report recommended the issuing of reminder notices (something which is absent from the current system) and I am glad to see that the legislation provides for reminder notices.

The report recommended early access to means tested payment options without incurring court fees or charges. That objective is, in my view, achieved in the proposed legislation. It was suggested by the authors of the report that there be a 10 per cent discount for those in hardship, who, nevertheless, paid in full and on time. As far as I can see that suggestion has not been incorporated in the legislation and I can see good reasons why discounts should not be allowed in an apparently discriminatory way. However, I ask the Attorney in his remarks to advise the Council what views the Government took in relation to the proposals for discounts. Many of the other recommendations in the extensive report of the working group have been taken up and are embodied in the new legislation.

I turn briefly to some aspects of the Bill which should commend it to the Council. The scheme as outlined in the new legislation is similar to that which exists under the existing legislation. When an expiation notice is issued an accused person has the right to elect to be prosecuted. That is a right which legislation ought preserve. The protections of court proceedings do not apply generally to the expiation notice scheme, and so it is important, in my view, that clause 8 gives that right to accused persons. Clause 9 gives to a person who receives an expiation notice the right to apply for relief and to apply for payment of the notice by either instalments or community service. These are sensible and very worthwhile provisions. The reminder notice provisions are contained within clause 11. They provide that no enforcement action can be taken in respect of an expiation notice until 14 days have elapsed from the date of the reminder notice. That is an important and sensible protection.

Clause 12 authorises an issuing authority to accept late payment of an expiation fee at any time before an enforcement order is made under the Act. Again that is an important provision. Many members will have received complaints about the fact that expiation notices have been received and, owing to some oversight or some other circumstance perhaps beyond the control of the person, the date for expiation has passed by a day or two but no late payment can be accepted under the current scheme. The protections are conferred in clause 14 where enforcement orders may apply to the court for a review. It has to be done within 30 days, which, although a reasonably short period, is probably sufficient. These applications are made to the Magistrates' Court ordinarily, but to the Youth Court in respect of those under the age of 18.

Clause 16(2) provides that an expiation notice may be withdrawn notwithstanding payment of an expiation fee or instalment but, in that event, the amount must be refunded. This is a provision which gives me a reason for a little disquiet. Ordinarily, one would have thought that, if an expiation notice is given and paid, that should be the end of the matter and that an agency ought not be in the position of being able to, as it were, start the process again in order to secure—

The Hon. K.T. Griffin interjecting:

The Hon. R.D. LAWSON: The Attorney suggests that it is in the present Act. I have not studied the present Act to see that but, notwithstanding whether or not it is in the present Act, it seems to me to be a somewhat unusual provision. If it is in the present Act, I ask the Attorney to ascertain whether or not information is available to determine whether this withdrawal of expiation notices is a common occurrence, what sort of circumstances arise when this device is employed and by what agencies.

The Hon. K.T. Griffin interjecting:

The Hon. R.D. LAWSON: I am indebted to the Attorney for drawing my attention to the fact that section 6 of the present Act provides a similar provision. I am not sure whether there was any recommendation in the report of the committee suggesting an alteration to it. However, as we are revisiting this scheme it seems to me that the Council's debate would benefit from knowledge of the circumstances in which that situation arises.

The Statutes Amendment and Repeal (Common Expiation Scheme) Bill and the Summary Procedure (Time for Making Complaint) Amendment Bill are related to this particular measure. I propose to comment briefly on those in connection with this measure. The Statutes Amendment and Repeal (Common Expiation Scheme) Amendment Bill simply repeals the Expiation of Offences Act 1987. It is interesting when one reads that Bill and the schedule to it to see the extensive number of Acts under which expiation notices are given.

Obviously, many expiation notices are given in relation to the traffic system, but Acts such as the Adelaide Festival Centre Trust Act, Art Gallery Act, Carrick Hill Trust Act, Botanic Gardens and State Herbarium Act, Fisheries Act, Fair Trading Act, Land Agents Act, Flinders University Act and many others use the expiation scheme. It is a valuable, worthwhile scheme and it is improved by the new proposals. I support the second reading of the Bill.

The Hon. J.C. IRWIN secured the adjournment of the debate.

STATUTES AMENDMENT AND REPEAL (COMMON EXPIATION SCHEME) BILL

Adjourned debate on second reading.

(Continued from 29 November. Page 663.)

The Hon. CAROLYN PICKLES (Leader of the Opposition): The Opposition supports the second reading. It is essentially consequential to the Expiation of Offences Bill and is part of the development in the area of expiation of offences for which so much of the groundwork was done by the previous Attorney and carried on by the present one.

The Hon. J.C. IRWIN secured the adjournment of the debate.

STATUTES AMENDMENT (ADMINISTRATIVE AND DISCIPLINARY DIVISION OF DISTRICT COURT) BILL

Adjourned debate on second reading.

(Continued from 29 November. Page 666.)

The Hon. CAROLYN PICKLES (Leader of the Opposition): The Opposition supports the second reading of this Bill. The Opposition has previously expressed its reservations in relation to the abolition of specialist tribunals, particularly in relation to the Residential Tenancies Tribunal. Now the Government proposes to bring the following jurisdictions to the recently created Administrative and Disciplinary Division of the District Court: the Soil Conservation Appeals Tribunal, the South Australian Metropolitan Fire Services Appeals Tribunal, the Tobacco Products Licensing Appeals Tribunal, the Tow Truck Tribunal and the Pastoral Land Appeals Tribunal.

The Opposition notes that District Court judges presently sit on each of these tribunals. Most of these tribunals have an additional two or three members, presumably with some speciality in that field. The schedules to the relevant Acts are amended by this legislation so that the assessors, which have become established as a feature of the Administrative and Disciplinary Division of the District Court, can be chosen from panels with appropriate expertise.

The Opposition will move a series of amendments in relation to this Bill, and they are all in respect of the Soil Conservation Appeals Tribunal and the Pastoral Land Appeals Tribunal. We believe that the appropriate forum for these disputes is the Environment, Resources and Development Court. We do not propose altering the system whereby assessors sit with a District Court judge. However, there is great merit in having one of the ERD Court judges as a judge involved in these types of matters. In many cases, the issues in relation to soil conservation and pastoral land use will be related to other environment, resources and development issues. That is why we consider that the ERD Court could most appropriately house these two jurisdictions. I know that the Australian Democrats take an interest in these matters and I am confident that they will agree with me that issues arising from the Soil Conservation and Land Care Act and the Pastoral Land Management and Conservation Act would best be dealt with judicially by those with extensive background experience in environmental and land use issues.

At the end of the day, the legislative changes are likely to lead to little practical difference in the administration of justice in respect of these various types of matters. I have two questions that I hope the Attorney will be able to answer before we conclude the deliberations on this Bill. It is worth noting in *Hansard* the number of matters with which each of these tribunals have dealt in the past 12 months or in the 1995 calendar year. Secondly, have estimates been prepared on the likely cost savings of the changes to be initiated by this Bill? I presume that some cost estimates are available because the Attorney has referred to the cost of duplication consequent upon what he calls the multiplicity of courts and tribunals. I hope that the Attorney will consider these questions and bring back a reply. We support the second reading

The Hon. R.D. LAWSON: I, too, support the second reading of this Bill, which is a step in the rationalisation of the multiplicity of courts and tribunals in this State. The system of a large number of specialist tribunals has, in my view, outlived its usefulness. That is not to say that these tribunals, or at least most of them, have not served a useful function and have operated to a satisfactory level. However, the initial philosophy underlying specialist tribunals has, with the passage of time, been found to be flawed. These tribunals were originally inspired by a desire to engender confidence in those who were being regulated by the tribunal. As these tribunals came on stream over the past few years, it was thought that confidence of the particular constituency would be improved if a particular tribunal looked after that particular industry or trade group.

Secondly, there was a belief that specialist tribunals were less legalistic than the courts system and more user friendly. However, on both counts, it is my view that the experiment has not succeeded. The confidence of the community in specialist tribunals is not as great in my experience as the confidence that the community generally has in the courts system, which is administered primarily by the judiciary. The specialist tribunals have not proven to be less legalistic than

the courts, if the courts are legalistic, nor have they proven to be more user friendly. Some of the specialist tribunals, which tend to get out on a limb of their own, have become extremely technical. Admittedly, the tribunals that we are dealing with in this measure are all presided over by a judge. Notwithstanding that, they build up their own little bureaucracies and their own little procedural rules, and that has not meant that the tribunal is user friendly, especially to those who are not regular users of it.

A couple of provisions in the Bill give me some cause for minor concern, and I address them to the Attorney and I mention that I would appreciate a response in due course. In clause 6, which deals with amendments to the Motor Vehicles Act, it is provided that a new section 98pc be inserted. Paragraph (e) provides that there is proper cause for disciplinary action against a person who holds a tow truck certificate if the person has been convicted or found guilty of an offence involving dishonest, threatening or violent behaviour.

It seems to me that nobody would have any qualms with dishonest, threatening or violent behaviour proven as not being a proper cause for disciplinary action. The clause goes on to provide 'violent behaviour or involving the use of a motor vehicle'. That does seem to me to be unnecessarily broad. Obviously, offences involving the use of a motor vehicle can range from the very serious to the trivial. Within the genus of dishonest, threatening or violent behaviour, it seems to me that the inclusion merely of a class involving the use of a motor vehicle is too wide. I query whether or not that expression ought be qualified in some way. Once again, I have not checked the existing legislation to see whether or not that is a carry over of it. The only other point I make in relation to this measure is that clause 98pg, once again, deals with complaints under the Motor Vehicles Act against tow truck operators. The District Court may, and I quote from the clause, 'if it is satisfied on the balance of probabilities that there is proper cause for taking disciplinary action'. This means that the degree of proof required in disciplinary proceedings under this Act is the balance of probabilities. The ordinary criminal standard degree of proof which applies to most criminal and quasi-criminal matters is beyond reasonable doubt. Here we have a degree of proof on the balance of probabilities.

I ask the Attorney whether that provision exists in the current Motor Vehicles Act. I have looked at the sections to ascertain that and have not found any mention of a statutory degree of proof. If I am right in that, is there any decision of the court which has established that the balance of probabilities is the appropriate standard in disciplinary proceedings of this kind? Has the court adopted, as it has in some other cases, a hybrid standard of proof based somewhat along the lines of the principles stated by the High Court in *Briginshaw v Briginshaw*? It seems to me that if we are changing the degree of proof required to a lower degree, one would want to be satisfied that there are good grounds for lowering the standard of proof and that the rights of persons who might be licensed under this legislation are being adequately protected. Save for those two queries, I support the second reading.

The Hon. J.C. IRWIN secured the adjournment of the debate.

RACIAL VILIFICATION BILL

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

The Hon. K.T. GRIFFIN (Attorney-General): 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 South Australian community has on a number of occasions registered its disgust and abhorrence of minority groups that, because of their extreme views, engage in racial vilification, incitement to racial hatred and racial violence. It is a strongly held view in the South Australian community, that there is no place in our multicultural society for racially motivated abuse, threat or attack.

There is at present no legislation in South Australia that specifically deals with racial vilification. In reinforcing our on-going commitment to the fostering of community values, the protection of safety of citizens and our respect for ethnic and racial groups within South Australian society, the Government is now introducing the Racial Vilification Bill into the South Australian Parliament.

By introducing this legislation, this Government is sending a clear and unequivocal message that the practice of racial vilification is abhorrent and that it is clearly unacceptable in South Australian society.

The Government is not saying, however, that South Australians are not to some extent already provided with protection from behaviour which is offensive, abusive or threatening.

Certain manifestations of racial vilification are caught as general offences under the Criminal Law Consolidation Act and the Summary Offences Act. Offensive conduct, assault, damaging property, offensive, threatening or insulting behaviour at a public meeting are specifically dealt with in these Acts. It is also a common law offence to incite another person to commit an offence.

Nonetheless, while the Equal Opportunity Act prohibits discrimination on the grounds of race in specific areas, it does not address racial vilification nor does it address racial harassment.

Consideration of the issue of racial vilification, around the country, indicates that the broader Australian community shares the South Australian community view that individuals or groups should not be entitled to incite racial hatred or to incite contempt for others on the grounds of their race or nationality. There have been numerous calls for the passing of legislation to outlaw racial vilification.

Whilst the need for legislation, however, is generally recognised, not everyone sees the need for the creation of criminal offences, preferring to address breaches through conciliation and education. That is not the view of the Government. When an individual has taken the step to threaten seriously another person or that person's property on the basis of their race or nationality, then clearly in the context of modern society, these people have crossed the line which common decency has drawn. They do not deserve the status that conciliation confers and it would be difficult to contemplate that they would respond merely to programs of education.

The issue of racial vilification has of course been given specific consideration in the past in South Australia.

- In 1991, the report of the Community Relations Advisory Committee recommended that the Equal Opportunity Act be amended to outlaw racial vilification.
- In recent annual reports, the Commissioner for Equal Opportunity has recommended that the Equal Opportunity Act be amended to include a general provision prohibiting racial vilification. She has noted that a number of complaints in this regard are made to the Commission each year.
- In a report prepared for the Government by Mr Brian Martin QC, it was recommended that the Government await the outcome of the then proposed Federal legislation before moving in this area.

  The Federal Racial Hatred Act has now been enacted and commenced in October 1995. This Act prohibits offensive behaviour based on racial hatred. It does not create any criminal offences. It allows complaints to be made to the Human Rights and Equal Opportunity Commission.

The South Australian Racial Vilification Bill creates the criminal offence of racial vilification provided that act of vilification includes a serious threat of violence to a person or property in public.

The offence is modelled on the New South *Wales Anti-Discrimination (Racial Vilification) Amendment Act 1989* and a draft Bill circulated by the Federal coalition.

The South Australian Bill refers to vilification as inciting "hatred towards, serious contempt or severe ridicule". This is the language used in all other legislation on the topic. It is a modification of the standard which applies in ordinary defamation actions, i.e. an

ordinary defamation is a publication which brings a person into "hatred, ridicule or contempt".

The Bill provides that the consent of the Director of Public Prosecutions is required to bring a criminal prosecution to prevent trivial or vexatious disputes clogging the Courts.

Only "public acts" are covered. A private racist threat will be dealt with by the ordinary criminal law. The Bill is novel in that it empowers the Criminal Court which convicts a person to pay damages up to $40 000 (including punitive damages). Maximum penalties of $25 000 against a corporate body or $5 000, or imprisonment for 3 years, or both, against an individual will be available to the Criminal Court under the Act.

The Bill also creates a new civil remedy which will enable a person who suffers detriment in consequence of racial victimisation to sue in ordinary Courts for damages. This is achieved by amending the Wrongs Act to create a new tort of racial victimisation.

A Bill introduced by the Leader of the Opposition gives the State Equal Opportunity Tribunal civil jurisdiction in this area. The Government takes the view that the ordinary courts of law should have jurisdiction in this important area both in relation to the criminal offence and civil redress.

It is appreciated that it is impossible to legislate to make it an offence to hold racist beliefs or to entertain hatreds based on racist feelings. The Bill therefore requires, in the adjudgement of an offence,

- that physical harm to a person or property is threatened, and
- that such threats occur in public.

Criminal sanctions are provided for in the legislation on the basis that clearly individuals or groups that promote racial violence or threats of violence are beyond the reach of effective conciliation and education. It is the function of the State to clearly prescribe the limits beyond which people may not go. The existing law does not contain any specific redress for racially based violence and the proposed offence is a mark of the community's unambiguous position in its abhorrence of racial violence.

There are no ramifications for freedom of speech, in relation to the proposed provisions for criminal sanctions. No person can claim that threatening violence to person or property, or inciting others to do so, is a fair exercise of freedom of expression.

The Government is mindful, however, that the need to impose legal sanctions against public acts of racial vilification should not impede fair and accurate reporting of these acts. To protect the obligation of the media to report matters of public interest, this Bill specifically excludes fair reporting from the provisions that provide civil redress against the tort of racial victimisation.

I commend the Bill to the House.

Explanation of clauses

The provisions of the Bill are as follows:

Clause 1: Short title

Clause 2: Commencement

Clauses 1 & 2 are formal.

Clause 3: Interpretation

Clause 3 contains definitions for the purposes of the new Act.

Clause 4: Racial Vilification

Clause 4 makes it an offence for a person, by a public act, to incite hatred towards, serious contempt for, or severe ridicule of, a person or group of persons on the ground of their race by threatening physical harm, or inciting others to threaten physical harm, to a member or members of the relevant racial group or to property of a members or members of the relevant racial group.

Clause 5: DPP's consent required for prosecution

Clause 5 provides that a prosecution for an offence under the new Act cannot be commenced without the consent of the DPP.

Clause 6: Damages

Clause 6 empowers the court by which a person is convicted of an offence against the new Act to award damages (including punitive damages) against the convicted person. Damages may be awarded both in criminal and civil proceedings, but the total amount cannot exceed $40 000 for the same act or series of acts.

The amount of damages that may be awarded for the same act or series of acts is limited to $40 000 in both criminal and civil proceedings.

Clause 7: Amendment of the Wrongs Act 1936

Clause 7 amends the *Wrongs Act 1936* to create a new statutory tort of racial victimisation. Under the proposed new section 37, a person may recover damages in tort for detriment (which includes distress in the nature of intimidation, harassment or humiliation) as a result of a public act inciting hatred, serious contempt or severe ridicule of a person or group of persons on the ground of their race. Damages may be awarded both in criminal and civil proceedings, but the total amount cannot exceed $40 000 for the same act or series of acts.

The Hon. P. NOCELLA secured the adjournment of the debate.

ADJOURNMENT

At 5.35 p.m. the Council adjourned until Thursday 8 February at 2.15 p.m.