LEGISLATIVE COUNCIL

Wednesday 14 February 1996

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

LEGISLATIVE REVIEW COMMITTEE

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

That the report be read.

Motion carried.

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

STATE BANK

The Hon. K.T. GRIFFIN (Attorney-General): I seek leave to make a ministerial statement about the State Bank.

Leave granted.

The Hon. K.T. GRIFFIN: I wish to inform the Council that today the action by the State and the State Bank against the former directors of the bank and their professional indemnity insurers, FAI Insurance, except in respect of former State Bank Managing Director Tim Marcus Clark, has been settled out of court. This action related to the discrete matter of the acquisition by the bank of Oceanic Capital Corporation eight years ago in 1988. The trial of the action against Mr Marcus Clark is to continue, and it is therefore inappropriate to deal with the merits of that part of the action. Members may recollect that I made a ministerial statement on 30 March 1994, when I announced that on the advice of the Crown Solicitor legal proceedings had been issued in the Supreme Court in this matter. The merits of the case were not then canvassed publicly and have not been, since that time. The case was very complex but, in a sense, it is something of a side issue compared with the major actions by the State against the auditor of State Bank, KPMG Peat Marwick, and the auditor of Beneficial Finance Corporation Limited, Price Waterhouse.

As with all litigation, the Government faced risks in relation to its claim against FAI. The extent of those risks became clearer the more that preparation proceeded and, on legal advice as to the real risks, it finally took the view that it made good business sense to settle for $2.75 million. Those risks largely related to alleged nondisclosure to FAI of relevant information at the time the insurance policies were taken out and the effect on the policies. The fact that the policies were taken out only seven months before the bank collapsed may have been seen to add some weight to the claims of nondisclosure.

The Government has also taken an assignment of those policies as part of the settlement. This settlement with FAI does not release it from any liability it has to indemnify the bank's auditors. The settlement still puts the Government and taxpayers significantly ahead in the costs incurred to date. A lot of the work done so far means the bank litigation team has developed a high level of capability and gathered evidence to move to the next more complex trials. The Government's costs which can be allocated to the conduct of this action, I am informed, are about $1.1 million. The seven former directors will write off all claims which they may have against the State of South Australia. Mr Lewis Barrett will repay $43 937—a payment on his retirement from the board of Beneficial Finance. Other former directors will forgo claims that we know of, totalling more than $216 000, and any other claims they may have against the bank group. The advice was that these claims have a reasonable basis.

The Government also has a legally binding agreement that they—that is the former directors other than Mr Marcus Clark—will provide their full cooperation in the two auditors' actions and any other actions involving the bank, its subsidiaries or joint ventures. The State has given them an indemnity in relation to outside actions they may face in relation to the bank and its subsidiaries without prejudicing any insurance cover they may have. Such insurance cover is to be preserved. The State will control it, and this ultimately will be to the State's advantage. In effect, the State now has full authority over the former directors in relation to their roles, claims, counterclaims and insurance.

It should be noted that any legal action involves risks to varying degrees and matters of judgment. In this action the Government weighed up the risks and made the judgment that it was better to settle with FAI and clearly secure the cooperation of former directors than face the risks and expense of protracted litigation. I seek leave to table copies of the two deeds of settlement.

Leave granted.

QUESTION TIME

TEACHERS' PAY

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 the teachers' peace offer.

Leave granted.

The Hon. CAROLYN PICKLES: Last week the Minister told this Chamber that he was delighted with the response from teachers, parents and principals to the peace package that he announced at the start of the year. Yesterday, in a total rebuff to the Minister and the Brown Government, the South Australian Institute of Teachers announced teachers will strike next Friday to consider a supposed offer from the Minister. The so-called peace offer announced on 29 January said that the Government acknowledged that the teachers deserved a pay rise and made a commitment to a fair pay increase. This was simply a ploy to keep the teachers quiet during the Federal election campaign.

The Minister's handling of teachers' pay has been nothing but a transparent stalling tactic, and he can take full responsibility for the disruptions at our schools as teachers fight for a fair deal. How many times have we heard the Minister blame the teachers' pay rise for cuts to education? A total of 422 teachers cut and bigger class sizes; 287 school service officers cut; school card cut; 100 specialist teachers cut; 28 music teachers cut, and still no pay rise. My question to the Minister is: How much are you going to offer the teachers?

The Hon. R.I. LUCAS: I met with the leadership of the Institute of Teachers soon after the Government's positive initiative to announce its six point peace package. The Government took the position that it did not want to see another 12 months of strikes, strikes and more strikes in our Government schools because, frankly, the two years that we have seen have basically created a negative image of what

occurs in our Government schools and, frankly, it is starting to drive parents and families away from our Government school system.

The Hon. L.H. Davis: And the carping criticism.

The Hon. R.I. LUCAS: And the negative criticism from the Opposition as well has only served to assist that cause. On the eve of the 1996 school year it was the Government that decided to take the positive initiative to announce a six point peace package to try to resolve, in a positive fashion, the concerns that had been raised by teachers and by the Institute of Teachers over the past few months. I must say that I have been overwhelmed by the response from teachers, parents and principals since the Government announced its six point peace package. Certainly, I know that members of the Government and the department have been very pleased with the response that they have received to the fact that it is the Government that is fighting to restore peace and stability to our Government school system and trying to prevent the teachers' union leadership from causing another year of havoc and destruction within our Government schools in South Australia.

The Government is keen to embark upon a campaign of highlighting the excellence of what is being achieved by our teachers, our staff and our students within Government schools this year. We do not believe we can embark upon that campaign if the union leadership of South Australia continues to be intent on conducting more strikes and industrial action within schools in this State. It has involved not just salaries: there has also been industrial action and strike action to oppose the basic skills test.

With regard to the introduction of the curriculum statements and profiles (the simple process of having teachers tell parents at what level their children are performing in art, technology, English or mathematics), there was an immediate black ban from the Institute of Teachers leadership. In all these areas the first resort has been to industrial action. That is why the Government took the initiative and why it is the peacemaker. That is why it offered the olive branch first.

The Hon. T. Crothers interjecting:

The Hon. R.I. LUCAS: The Hon. Mr Crothers says 'Blessed are the peacemakers.' We have offered the olive branch to teachers generally in a genuine attempt to convey a positive image of the excellence of what happens in Government schools in South Australia. I called for urgent discussions with the union leadership and, whilst I meet with them on a regular monthly basis, I indicated that our first meeting this year should address solely the six point peace package announced by the Government, and we did so. An agreed form of words was announced by both the institute leadership and me as Minister at the end of that first meeting. That was—

The Hon. T.G. Roberts interjecting:

The Hon. R.I. LUCAS: No. First, no agreement had been reached on the six point peace package. Secondly, both parties would go away to consider their respective positions, and there would be further discussions in the following week. Subsequent discussions arrived at an agreement with the union leadership that no public statement would be made by either party prior to 19 February (next Monday) whilst the Government continued to work on its positive initiative, the six point peace package, and that we would come back and have further discussions to further that process. I can say that the President of the Institute of Teachers, Janet Giles, agreed absolutely and unequivocally not to make any public statement on the Government's six point peace package and those discussions until 19 February.

The Hon. A.J. Redford: Did she keep to it?

The Hon. R.I. LUCAS: Some of my colleagues are provoking me, Mr President, but I am not going to take—

The PRESIDENT: Order!

The Hon. R.I. LUCAS: I am being asked whether she is a woman of her word and has kept her promise. Mr President, I am going to keep wise counsel.

The Hon. Carolyn Pickles: Have you kept your promise?

The Hon. R.I. LUCAS: The Leader of the Opposition asks whether I have kept my promise, and the answer is 'Yes, absolutely yes.'

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: I have made no statement about the detail at all.

The Hon. A.J. Redford: In contrast to her position.

The Hon. R.I. LUCAS: Some might suggest that it contrasts with the position that has been adopted by the Institute of Teachers, and I am not to know what transpired after having given a firm commitment—a promise—not to make any public comment on this issue until 19 February. Something must have happened at the end of that conversation. Even though provoked by the union leadership, I have said, and will continue to say, that I have no intention in this Chamber or publicly of breaking the commitment that I gave to the Institute of Teachers leadership and through them to the teachers and the staff in our schools.

The Government is intent on trying to bring about peace in our schools this year. We have given a commitment to do further work on the peace package, and we will meet our commitment by 19 February to move to that next step in this process by having further discussions with the Institute of Teachers leadership. If the union leadership chooses not to want to talk to the Government and if it chooses to reject what the Government has to say, the only response will be to put the Government's six point peace package directly to teachers and staff in our Government schools. Let us ask them what they have to say about the Government's positive initiative to try to resolve this problem within our schools.

The Hon. Carolyn Pickles: You have got to deal with the union.

The Hon. R.I. LUCAS: I have always dealt with the union. As I said, I meet with them every month and discuss these issues, and I have met with them on this issue. I will be pleased to continue to meet with them, even though I must admit that my patience was sorely provoked by their actions after a solemn promise and commitment given that they would not speak out on this issue prior to 19 February.

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: Given the promise I have made to the union leadership, I cannot answer the Leader of the Opposition's question as to how much the Government intends to offer teachers at this stage. I will keep the commitment and have discussions with the union leadership, and, if that proves to be unsuccessful, directly with teachers and staff in our schools.

STATE FORESTS

The Hon. R.R. ROBERTS: I seek leave to make an explanation before asking the Minister for Education and

Children's Services, representing the Premier, a question in relation to the $200 000 review of the State's forests.

Leave granted.

The Hon. R.R. ROBERTS: On 30 January the Premier and his Minister for Primary Industries announced the establishment of a six member committee to review the operation of the State's forests. In the *Advertiser* of that day, the Minister for Primary Industries identified that a major role for the committee would be to identify the issues relevant to the protection and promotion of the economy of the State's South-East, including the maximisation of opportunities for sustainable economic development and for jobs.

The membership of that committee, as reported, included the Chairperson from the Department of the Premier and Cabinet; a member of the board of Forwood Products; Mr Adrian Scott from the office of the Minister for Primary Industries; Dr Roger Sexton from the Asset Management Task Force—this is the task force that was set up to dispose of the State's assets, and one may ask why was he on the committee if they were not going to sell them; Mr Ian Millard from Primary Industries South Australia; and a representative from the Economic and Development Authority.

The Opposition has been contacted by numerous bodies in the South-East concerned that there is no representation on the review committee from local government bodies, industry groups, trade unions or welfare organisations. Some have expressed concern that the review is made up of bureaucrats and people with little or no interest or knowledge of the South-East. In fact, the South-East Local Government Association has expressed concern that it will have no input into the review at all.

Honourable members would be aware of the sterling work done by the Eyre Peninsula Strategy Group, chaired by the Hon. Caroline Schaefer, which looked at a range of issues facing the economic and social development of that region and which took into account a wide range of views and opinions before making its final recommendations. Honourable members would recall that the member for Giles, Mr Frank Blevins, was also a member of that group. Therefore, my questions to the Premier are:

1. Will the membership of the review committee be expanded to include local government, industry, trade union and welfare groups to ensure the views of the broader South-Eastern community are taken into account?

2. Will the review committee conduct public meetings in the South-East to obtain community input?

3. Will the review committee be expanded to include the valuable input of members of Parliament with an interest in this area, including the member for Gordon, Mr Harold Allison, the member for MacKillop, Mr Dale Baker, and the Hon. Terry Roberts, MLC?

The Hon. R.I. LUCAS: I suspect that the honourable member knows the answers to his questions before he asks them but, nevertheless, I shall refer the honourable member's questions to the Premier and bring back a reply as soon as I can.

SOUTH NEPTUNE ISLAND

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

Leave granted.

The Hon. T.G. ROBERTS: Late last year, I was looking out of the window of my new office thinking about various things and the telephone rang, and I had a call from—

The Hon. Anne Levy: Standing on tiptoe!

The Hon. T.G. ROBERTS: Yes, I was standing on a box to get a view. The view does take in the tops of the trees in the Government House grounds, but I have to stand on a box to see the trunks of the trees and the gardens. As I was doing that, I received a telephone call from a constituent from a place that I was not thinking about, and that was South Neptune Island. It is not very often that one receives telephone calls from constituents from such outlying areas as Neptune Island.

An honourable member interjecting:

The PRESIDENT: Order!

The Hon. T.G. ROBERTS: I must say in answer to the interjection from the honourable member—

The PRESIDENT: I suggest that you ignore that.

The Hon. T.G. ROBERTS: I would just remind the honourable member that South Neptune Island is deep in the heart of conservative territory. Labor members are not used to fielding calls from that area. Although we do have a lot of support and many loyal members in that area, they tend to telephone, write or see you in person. Be that as it may, I received the telephone call from South Neptune Island and I spoke to a constituent who was most concerned about the future of Neptune Island and the prevarication that had occurred with the Government then deciding its future.

The position put to me was that there were a number of people who had emotional attachment to the area and a commitment to the protection of the South Neptune Island network of integrating suitable ecotourism, that is, people who are tired and burnt out—such as members of the Government on the other side—and who may want to take up a fortnight or week on Neptune Island, throw away their telephones, and have a good break and a rest while surrounding themselves with sealions and the beauty of the nature that exists in that area. That is a little plug for South Neptune Island.

The concerns that they had were that the Government's position was not being spelt out in a clear manner and that people were concerned that, the longer the no decision process was being gone through, the less likelihood there was of the Government's coming up with a decision that would be suitable for integrating ecotourism onto Neptune Island, maintaining the weather station and looking after the heritage listed buildings that are on the island. For those who do not know, there is a small airstrip and provision for landing a helicopter there. The Government has now gone through a process whereby it has called for expressions of interest or a tendering process, and it let that contract in October.

The interviews took place starting on 2 November and, by 1 February, a process of due diligence was to be gone through. As yet, there is no result from those deliberations. The concerns that some people in the area have are that there may be a privatisation agenda here and perhaps a freehold sale of the island. It is the view of those people who have an interest in maintaining the heritage buildings and maintaining an ecotourism project—not bed and breakfast but broadened out ecotourism—with looking after the weather station that there may be a sale process that does not make it economically viable. Will the results of the due process be known in the short term, and is the delay being caused by other options such as a sale being contemplated?

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

HINDMARSH ISLAND BRIDGE ROYAL COMMISSION

The Hon. SANDRA KANCK: I seek leave to make an explanation before asking the Minister representing the Premier a question about inaccuracies in the report of the Hindmarsh Island Bridge Royal Commission.

Leave granted.

The Hon. SANDRA KANCK: Many of the opponents of the construction of the Hindmarsh Island bridge have been amazed at the inaccuracies they have found in the report of the Hindmarsh Island Bridge Royal Commission. The Royal Commissioner—

The Hon. Anne Levy: Including genealogies.

The Hon. SANDRA KANCK: Including genealogies, yes. The Royal Commissioner has assigned roles to people that they never had and asserts that conversations took place and statements were made that are either inaccurate, out of chronological context or, even, just plain fictitious. For instance, page 85 of the report refers to a conversation that a Goolwa businessman—secretly, by the way he told this—was party to between Bill Longworth and David Thomason some time before October 1983, apparently. Unfortunately for that businessman and the accuracy of the royal commission's findings, that conversation never took place because at that time Mr Thomason had not become involved in the anti-bridge group, nor did he become involved until after a public meeting on 8 October, yet the Royal Commissioner has said that this supposed conversation and its alleged timing was significant.

Page 86 refers to a question asked at the 8 October public meeting that was allegedly answered by Henry Rankine. A tape recording of the meeting shows that, first, the answer as referred to by the Royal Commissioner is not the answer that was given and, secondly, that Henry Rankine was not the person who answered. Page 73 says that Mr R. Owen gave evidence to the Environment, Resources and Development Committee on 7 July 1993 when, in fact, he did not. These three examples are only some of the inaccuracies in the royal commission's report brought to my attention by people named in it. These people have said to me that the Premier's undertaking that no charges would be laid against anyone as a result of the Royal Commissioner's finding was not given out of any sense of magnanimity but because any charges would founder in a court of law and show the royal commission's findings to be nothing more than speculation.

A number of the people named in the report have told me that the evidence given was flawed and one-sided, that therefore the outcome was always predictable and that they are willing to sign statutory declarations about the inaccuracies. Given that basic errors exist in what are the underpinnings to the Royal Commissioner's conclusions, I ask:

1. Does the Premier consider that the Royal Commissioner has erred?

2. Is it for fear that the Royal Commission will be shown to be inaccurate that the Premier says that legal action will not be taken against anyone?

The PRESIDENT: Order! I call on the Attorney-General, but before I do so I point out that it is not necessary to prefix a question with an opinion.

The Hon. Sandra Kanck: There wasn't any opinion: see the *Hansard*.

The PRESIDENT: The honourable member should have a look in the morning. The Attorney-General.

The Hon. K.T. GRIFFIN: I will take the question and answer it. The fact is that there were some 6 700 pages of evidence and nearly 300 exhibits and a whole raft of information was provided to the royal commission, and out of it came a very comprehensive report. To suggest that it was flawed and one-sided is a nonsense. The fact is that those who were proponents of secret women's business were invited to attend the royal commission on the basis that they would have legal costs paid by the State, but they resiled from that. On the other hand, there were men who supported them and who actually gave evidence. The so-called dissident women, who were present at many of the meetings where this issue was discussed with the proponent women, gave evidence. So, it is not a flawed royal commission. The fact is that both—

The Hon. Sandra Kanck: It was one-sided.

The Hon. K.T. GRIFFIN: It was not one-sided. If you read the transcript, report and evidence you will see that it is quite clear that all sides of the argument were put.

The Hon. Sandra Kanck interjecting:

The Hon. K.T. GRIFFIN: You tell me—the honourable member—

The Hon. ANNE LEVY: On a point of order, Mr President. The Minister should address the Chair and not say, 'You tell me.'

The PRESIDENT: Order! I agree with the point of order and I suggest that the Minister show some regard. If members do not interject he may not get to that stage. The Attorney-General.

The Hon. K.T. GRIFFIN: If the honourable member had bothered to listen to what I ended up saying, I began by saying, 'You', and then corrected myself and said, 'The honourable member'. If the Hon. Anne Levy wants to take these points of order, fine. I knew that I should have spoken through the Chair and I corrected myself: all right? So that's it.

The Hon. Carolyn Pickles: You're so touchy on this.

The Hon. K.T. GRIFFIN: I am not touchy on it at all. I just get angry that people are so short-sighted that they cannot understand what the issues were before the royal commission and the way in which the royal commission was held. Everybody was given an opportunity to appear. Can the honourable member tell me why the proponents of secret women's business did not want to appear before the royal commission?

Members interjecting:

The Hon. K.T. GRIFFIN: They were scared that their story was to be probed. The so-called dissident women did not resile from it, notwithstanding threats and intimidation; they were prepared to get up and say what they believed and they were prepared to be cross-examined. They were pilloried by some in the public arena as well as privately. They had the courage to come before the royal commission—

Members interjecting:

The PRESIDENT: Order!

The Hon. K.T. GRIFFIN: —and give evidence and to have their evidence tested. That is the issue. The fact is that right from the outset the Premier said—

Members interjecting:

The PRESIDENT: Order! The Attorney-General.

The Hon. K.T. GRIFFIN: The honourable member casts some aspersions upon the Premier's early statements that we were not looking to get out of the royal commission the basis for prosecuting people. That was made on the basis of sensitivity towards the issue. We wanted to get to the facts and we got to the facts; that is clear for everybody to see. If the honourable member wants to scratch around the outside on the periphery and try to undermine it, she is entitled to do that, whether that be in here or outside but, if you look at that comprehensive report and the evidence that was before the royal commission, nobody could argue objectively that it was not handled sensitively and competently. The Premier and the Government have said before that we were not using the royal commission for the purpose of founding a case against anybody. It is not a question of being afraid to go to court. Governments are not afraid to go to court, because they have all the resources; but the fact is that Governments are sensitive about the issues which—

The Hon. Anne Levy interjecting:

The PRESIDENT: Order! The Hon. Anne Levy.

The Hon. K.T. GRIFFIN: —the community has to confront. In this area, it is sensitive. The Government sought to provide every encouragement for people to put their point of view to a Royal Commissioner, who dealt with the issue sensitively. Some chose to ignore the invitation; others were prepared to front up. Whether or not this report ever goes to court for some reason, it will be shown to be a competent and objective report.

LOCAL GOVERNMENT ELECTIONS

The Hon. A.J. REDFORD: I seek leave to make a brief explanation before asking the Attorney-General a question about returning officers in local government elections.

Leave granted.

The Hon. A.J. REDFORD: Some time ago I was approached by a constituent regarding a number of her concerns with her local council. She was a member of the council representing a ward. She explained to me that on many occasions she had expressed concern about a number of issues with which the council was dealing. She explained that she had raised concerns regarding travel accounts, the use of a car for the Chairman, a trip to Canberra for the Chairman, the purchase and installation of a fax machine for the Deputy Chairman and Chairman and the *ad hoc* basis upon which the Chairman dealt with money issues, disregarding appropriate legal processes. My constituent also expressed concerns about the relationship between the Local Government Association and her council. She explained that her complaints were dismissed contemptuously and she complained that as the sole female member of the council she had been treated in a rather patronising manner. Some time later, she telephoned me to advise that she had decided to resign from the council, and indicated that she had become so frustrated with the attitude of her fellow councillors that she felt that the only way she could bring her complaints to the attention of the ordinary ratepayer was to resign and stand again on the issues that she had continuously raised and which had been continuously ignored.

An honourable member interjecting:

The Hon. A.J. REDFORD: I am happy to tell you later, privately. On Wednesday 31 January 1996 she wrote to the electors and ratepayers in her area. She signed the letter and placed her contact telephone and fax numbers at the bottom of the letter. On 6 February a circular was sent to all the electors of the district council. The circular was on the letterhead of the District Council of Mount Remarkable and was signed, P.J. Moore, District Clerk. At the bottom of the circular were printed the words 'Written and authorised by the members of the District Council of Mount Remarkable.' That circular to the electors stated:

> Advice has been taken in relation to the statement issued by [the relevant person], and that advice is that the statement does not comply with the requirements of section 133 of the Local Government Act.

I advise that that involves placing your name, address and an authorisation on the letter. This circular was confirmed by letter on the district council's letterhead and signed by P.J. Moore on 7 February. However, on this occasion he did not sign it as the District Clerk but as the Returning Officer. What I find very concerning is that the circular of 6 February proceeded to answer in full the suggestions and allegations made by my constituent regarding the conduct of the Chairman of the local council. A full page answer is given. It is undoubtedly partisan and political. All of it was above the signature P.J. Moore, District Clerk. One can only assume that it is the same P.J. Moore who is the Returning Officer. Everyone here would agree that the integrity of the democratic system is paramount in our society, and a returning officer plays a major role in that.

I draw members' attention to sections 87 and 121 of the Local Government Act, which set out the rather onerous tasks and the important responsibility that returning officers have. I am not sure how widespread is the sort of conduct I have described above, but it causes me some concern. My questions are therefore as follows:

1. Is the Attorney-General aware of any other occasions where chief executive officers of councils who are also returning officers become involved in council politics?

2. Will the Attorney-General write to the Electoral Commissioner drawing his attention to this and seeking his views whether the Local Government Act needs any amendment to overcome this sort of conduct by returning officers?

The Hon. K.T. GRIFFIN: I am certainly not aware of any situations where chief executive officers of councils are also returning officers, but this is not specifically my area of responsibility. I will refer the question to the relevant Minister and determine whether we can ascertain that information and bring back a reply. Generally I have specific responsibility for electoral matters, although the electoral issues arising under the Local Government Act are generally the responsibility of local councils. They may be assisted by the Electoral Commissioner from time to time in the conduct of elections and preparation of rolls. There is an arrangement that ensures that the Electoral Commissioner provides the electoral rolls for the council, and from time to time the Electoral Commissioner has some involvement in the conduct of local government elections. I will refer the matter, which seems to have a complex set of facts upon which the question is raised, to the Electoral Commissioner. It may be that it also needs to be referred to the Minister for Local Government Relations. In any event I will bring back replies.

PUBLIC ENQUIRY TIMETABLES SYSTEM

The Hon. T.G. CAMERON: I seek leave to make a brief explanation before asking the Minister for Transport a question about the Public Enquiry Timetables System (PETS).

Leave granted.

The Hon. T.G. CAMERON: In response to a question of mine on 4 July 1995 about the Public Enquiry Timetables System, commonly known by the acronym PETS, the Minister said she would get more details for me and told the Council that a review of PETS was being undertaken. To refresh the Minister's memory, my questions were: how much has the Government spent on a computerised public enquiry timetables system; when will it be introduced for the benefit of TransAdelaide patrons; and is there a chance of PETS being sold to other public transport authorities? Will the Minister answer the questions I asked on 4 July; and will the Minister now tell the Council the outcome of the review and share with us the detail she promised six months ago?

The Hon. DIANA LAIDLAW: I am surprised that the honourable member indicates that the answers are outstanding, because certainly there is nothing to hide, and there is no reason not to reveal the full situation. So, I will make some inquiries and discover the whereabouts of the answer that the honourable member sought back in July, and how I can speed it up.

CONSUMER PROTECTION

The Hon. L.H. DAVIS: I seek leave to make an explanation before asking the Minister for Consumer Affairs a question about consumer affairs.

Leave granted.

The Hon. L.H. DAVIS: McGregor Marketing recently asked 400 residents of metropolitan Adelaide three questions about current South Australian consumer protection legislation. The results of this consumer survey—community monitor, as it is described—were recently made public. The first question asked whether the 400 respondents agreed to the current consumer affairs legislation and whether it was effective in protecting the rights of the consumer. Of the respondents, 50 per cent strongly or slightly agreed with the proposition, 24 per cent were undecided and 26 per cent strongly or slightly disagreed.

The second question was whether the 400 respondents agreed that the rights of retailers were adequately protected by legislation. A total of 47 per cent strongly or slightly agreed, 38 per cent were undecided and only 15 per cent strongly or slightly disagreed. The final question asked whether consumer protection legislation is required more or less today than when it was first introduced many years ago. Some 41 per cent said the legislation was required a lot more and 26 per cent said a little more; in other words, 67 per cent in total said that it was needed more. Only 5 per cent said it was required a little less or a lot less, and 28 per cent said it was about the same. Has the Minister for Consumer Affairs seen this recent community monitor from McGregor Marketing and, if so, does he have any comment on it?

The Hon. K.T. GRIFFIN: I have seen the results of the survey. I am not aware of all the detail of it, but that was a fairly small sample. However, it did indicate, as I recollect, that a majority of people were satisfied that the present legislation was sufficient to provide them with protection in relation to their rights. Of course, a large number of people were undecided, and I suppose that is probably the more concerning aspect of the survey and the extent to which members of the community are undecided about whether or not they have sufficient protections. I suspect, though, that a lot of people do not have to worry too much about that because they generally do not have any cause for complaint and probably have very little experience with consumer legislation.

It may be that the encouragement that has been given to commerce and industry to try to resolve complaints at an early stage is in fact working. I think members know that, certainly in the last two years, I have been trying to encourage business to deal themselves with complaints at an early stage to prevent them from festering on and to give customer satisfaction. In a fairly competitive marketplace, people are concerned to ensure that they are seen to be giving good service. When it comes to dealing with complaints, the speed with which one deals with those complaints is relevant to the question of service, and so is the speed with which the actual complaints may be resolved.

That emphasis is important because it seeks to remove a little from Government the obligations which people believe Governments have to resolve their problems without first trying to help themselves. I recognise a lot of people cannot take that course and prefer to come to Government because they do not know where else to go but, as much as it is possible to do so, we are encouraging both business and consumers to get complaints resolved at a very early stage.

From what I remember of the survey, it does have some favourable findings in relation to consumer legislation. When it comes to talking about protection of rights, again it is something more favourable than unfavourable, and that is reassuring, but I do not think it is something about which we ought to rest on our laurels. It is an issue that does need to be pursued continually, both with business and with consumers, to ensure that we minimise, as much as it is possible to do so, problems between the two groups.

ROAD FUNDING

The Hon. P. HOLLOWAY: I seek leave to make a brief explanation before asking the Minister for Transport a question about road funding.

Leave granted.

The Hon. P. HOLLOWAY: The January/February edition of the official magazine of the Royal Automobile Association, *SA Motor*, contains an article which awards brickbats and bouquets in relation to matters within the RAA's interest. The RAA gave brickbats to the Brown Government for failing to honour its election promise to dedicate an extra $10 million a year in State petrol fees to road construction projects. The article stated that the revenue from petrol fees allocated to road funds this year would be 16.4 per cent of the estimated fuel franchise revenue, which is the lowest share ever of State fuel tax revenue going to the Highways Fund. The article then continued:

> And brickbats again to the State Government for devising a scheme aimed at diverting more funds from roads, disguised in the form of asset transfers between Government departments. On 30 June, the O-Bahn busway was transferred from TransAdelaide to the Department of Transport, together with an outstanding debt of $75 million. The Department of Transport must now spend precious road funds to repay this debt to Treasury. Any amount spent by the Department of Transport on repayment of this debt means even less funds available for spending on a safer, more efficient road system.

My questions to the Minister are:

1. What are the estimated repayments for this year on the $75 million debt which will now come from road funds?

2. Which road projects have been cancelled or delayed as a consequence of this reduced funding?

The Hon. DIANA LAIDLAW: The honourable member is as confused as the RAA is on this issue. As I have indicat-

ed in the past, there are more and more roadworks being funded, and none cancelled. The $112 million for the Southern Expressway is coming from funds within the budget of the Department of Transport. We have announced a $55 million program over 10 years for the sealing of rural roads in incorporated or council areas. The honourable member would be aware—and if he is not aware it would only because he chooses not to be, as many statements have been made—about increased funding provided by the Department of Transport for at long last sealing the roads on Kangaroo Island.

The honourable member would be aware again, if he chose to be informed, that that matter is not directly a responsibility of the State Government. They are local roads, yet because of the importance of those roads the State is investing in them through the Department of Transport.

All those projects, including the Morgan to Burra road, are additional road funded projects. Nothing has been cancelled from the Labor Party's list. In fact, Mr John Quirke, the member for Playford, is particularly pleased and, if one chose to read his comments, both in the paper and in the other place, one would see that, unlike the former Labor Government, this Liberal Government has found funds for a major road project within the electorate of Playford, and we have been congratulated for that. So, additional funds have been found, and nothing has been cancelled. The additional funds have been found because of restructuring within the Department of Transport.

Before the honourable member was a member of this place, I made a ministerial statement about the strategic plan for the Department of Transport over the next three years. It is clear that I should provide not only the Hon. Mr Holloway but also the Hon. Mr Nocella, who also was not a member at that time, with a briefing on these matters. They would then realise the new way we are doing our business within the Department of Transport. Funds are being found for all these new projects because we are much more efficient in the way in which we do our business. Through those efficiencies, we can find those new funds.

The new funds amount to much more than $10 million. The sum of $10 million is not a paltry amount in any terms but, in road terms, $10 million can be eaten up very quickly. We promised an extra $10 million from fuel franchise fees. By restructuring the way we do our business in the Department of Transport, we are finding much more than $10 million each year for roadworks in this State. Therefore, there is no need, in my view, to pursue that policy initiative because, by other means, we have more than adequately found more funds than our policy commitment deemed to be necessary at the time to make up for the backlog of roadworks which the Labor Government had left behind and the new initiatives which the Liberal Government wished to pursue.

In terms of the debt issues, the honourable member would be aware that it has been important, in terms of the restructuring of public transport and competitive tendering, that infrastructure once owned by the STA, then TransAdelaide, is held by a third party. In this sense, I refer mainly to the bus fleet and depots. Money has been transferred to the Department of Transport to cover those debt arrangements.

In addition, we have within the Department of Transport, which is efficient in managing debt, a new debt management strategy that has been worked through with Treasury. In my view, it is a good thing that we are consolidating those debts within agencies and, I would argue, managing them more effectively than they have been managed in the past in terms of working through those debts.

WATER, OUTSOURCING

In reply to **Hon. CAROLYN PICKLES** (18 October 1995).

The Hon. R.I. LUCAS: The Minister for Infrastructure has provided the following response.

Both of the major parent companies of United Water International (UWI), Compagnie Generale des Eaux and Thames Water, have:

. jointly and severally guaranteed the performance of UWI's operations and maintenance obligations to SA Water under the contract; and

. furnished appropriate performance guarantees to SA Water to ensure the initial and continued financial viability and UWI during the term of the agreement.

UWI, the contracting company, will be capitalised at $3 million now that the contract is signed.

UWI has provided a performance bond of $A20 million. This bond will be held by a financial institution in Australia which is acceptable to SA Water and allows access to such funds in the event of a serious breach by UWI under the contract.

PORT ADELAIDE COUNCIL RATES

In reply to **Hon. L.H. DAVIS** (30 November 1995).

The Hon. R.I. LUCAS: The Minister for Housing, Urban Development and Local Government Relations has provided the following response:

1. No. The interests of ratepayers are protected by the provisions of the Local Government Act which enable a ratepayer to require a council to review its valuation and, if still dissatisfied, to require it to refer it to the Valuer-General for review. The Act also provides for an appeal to the Land and Valuation Court. A specific investigation of valuations is therefore not required to protect ratepayers given these avenues are available.

The practice of using council's own valuers, even for some but not all land within a council area or category of land use, is available to councils under the Local Government Act. This was confirmed by the Crown Solicitor in 1994. The desirability of this practice will be examined in the course of the current review of the Act.

2. No. The issue of the approach to valuation is quite separate from the allegations made against Port Adelaide Council in 1995.

WATER SUPPLY

In reply to **Hon. T.G. CAMERON** (26 September 1995).

The Hon. R.I. LUCAS: The Minister for Infrastructure has provided the following response.

1. The South Australian Government, through SA Water, will retain ownership of all fixed assets required to service the water and wastewater need of the people living in metropolitan Adelaide. SA Water has a proud record of achievement as a responsible and effective manager for assets with a written-down value of approximately $5 billion, in water supply and wastewater infrastructure, throughout South Australia.

Indeed, SA Water has accrued much technical expertise and know-how in asset management over the last 10 years in particular and has been at the forefront of developments in this field particularly within government. The contracting out proposal for Adelaide's water and wastewater services provides an opportunity to fully implement these developments at a lower cost than would otherwise be the case under continued operation by SA Water by drawing on the benefits of the contractor's international experience.

SA Water is therefore very mindful of its responsibilities to the government and the people of South Australia, in matters pertaining to the maintenance of these assets both in the short and long term.

As a result, SA Water has devoted considerable attention in the preparation of the Request for Proposal (RFP) document to clearly define the responsibilities of the successful contractor in respect to asset maintenance. In this regard, the RFP not only identifies the multiplicity of maintenance activities which are expected to be carried out by the contractor, but also qualifies this by stipulating requirements for:

(1) ensuring continued serviceability of all asset categories; and

(2) performance for service delivery to customers.

The achievement of these objectives will be supported by the development of detailed asset management plans by the contractor

which will be adopted following review and approval by SA Water. These asset management plans will reflect international best practice and will incorporate:

. planned maintenance programs including condition monitoring; and
. a whole-of-life approach to the optimisation of maintenance and replacement.

Finally, the contractual agreement between SA Water and the successful contractor will ensure that SA Water, or its agents, can monitor the maintenance activities of the contractor through formal reporting mechanisms, inspections or by special audit arrangements, to ensure that maintenance of the assets is being properly managed in accordance with agreed standards.

SA Water, as the asset owner, will continue to accept and process applications for new connections to the water or wastewater networks, or for modifications to existing connections. The Government will continue to determine the charges for this service and SA Water will collect the required monies at the time of application in accordance with existing procedures.

SA Water will then direct the contractor to provide the required service connection in accordance with pre-determined performance criteria. The physical work will be carried out by either the contractor's own labour or by a sub-contractor, at market competitive rates.

This arrangement will ensure that SA Water will provide a customer focussed service which is effective and cost-efficient.

2. The profit component of the contractor is included in the contract price charged to SA Water for providing water and wastewater services in the Adelaide metropolitan area, and will not add to the price charged for water supply in South Australia.

The contract price represents substantial savings in the cost of providing the water supply.

3. The Minister is aware of reports that the privatisation of water supply in France and Great Britain has led to increases in charges for water supply.

The South Australian Government will control the charges for water supply, the model that is being adopted is that of contracting out, not of privatisation. As stated in response to question 1, water and wastewater assets will continue to be owned by the Government, the Government will retain control of pricing, UWI will have no role or influence in this process, and therefore, the well publicised situation of the United Kingdom will not arise in South Australia.

ABALONE

The Hon. BERNICE PFITZNER: I seek leave to make a brief explanation before asking the Attorney-General a question about abalone poaching.

Leave granted.

The Hon. BERNICE PFITZNER: Last week, in response to an article in the *Advertiser* on the poaching of abalone, my colleague the Hon. Caroline Schaefer had concerns on the subject, calling the robbing of undersized abalone environmental vandalism and robbing of this natural resource. I agree with the honourable member's sentiments. I would like to inquire further on this subject. Some months ago I was informed that one of my community members was involved in an alleged abalone poaching incident. This incident was also reported in the *Advertiser* at that time.

Further to this, it was reported that this person was only given an expiation fine as the penalty for this significant wrongdoing, that is, abalone poaching. To my mind, this particular sanction is too lenient a penalty for an offence which is severely depleting our waters of a most valuable commodity. My questions to the Attorney—

The Hon. Anne Levy interjecting:

The Hon. BERNICE PFITZNER: Yes, this is here. My questions to the Attorney-General are:

1. Will the Attorney-General investigate the circumstances of that incident of abalone poaching?

2. Taking the findings into account, will the Attorney explain why such a light penalty as an expiation fine was imposed?

The Hon. K.T. GRIFFIN: If the honourable member cares to give to me the name of the defendant, the location of the offence and the date of the offence, I will certainly be able to follow it up. The Fisheries Act does provide for some expiation fees, but my understanding is that generally prosecutions are initiated when it comes to abalone poaching or other similar offences. Some quite tough penalties are imposed, even to the extent of forfeiture of equipment, including boats and even motor vehicles. As I say, the penalties can be quite hard. I recollect that a repeat offender recently ended up receiving a gaol sentence. In those circumstances, the court seemed, quite properly, to be imposing quite tough penalties. I am not sure where the expiation fee issue might have been relevant, but I will make some inquiries, if the honourable member gives me the detail, and bring back a reply.

GOVERNMENT ACCOUNTABILITY

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister for Education and Children's Services, representing the Premier, a question about Government accountability.

Leave granted.

The Hon. M.J. ELLIOTT: On Tuesday last week the Premier released a statement offering to provide to State Parliament summaries of Government deals after contracts have been signed. Concerns have been raised about the inadequacy of this process, particularly in the light of the Government's handling of several major outsourcing proposals so far undertaken. The Premier's statement referred to the need for checks and balances and the Government wanting to remain fully accountable to the public through the Parliament. The Premier offered scrutiny of the outsourcing process, which would be solely determined by the Executive, in particular that they would choose what information was provided to Parliament and that it would be provided only after a contract had been signed.

It is important to note that up until 1986 there was a Public Works Committee with a brief to approve any public works worth more than $500 000. This amount was amended to at least $2 million until the committee ended in 1991. The present Public Works Committee can inquire into any public works being undertaken which are referred to it, with no monetary threshold. By comparison, concern has been raised about the value of public works which require parliamentary assent, or at least are subject to scrutiny before the event, before they proceed and the size of the outsourcing contracts currently being undertaken by the present Government.

It has been pointed out that some of these billion dollar outsourcing contracts bind future Governments for up to nine years. Yet, we are being offered by the Premier information that is deemed appropriate by the Government and supplied after the event. The community is fearful of the impact of future contracts, as we are all aware of several other contracts which are in the process of being offered, in areas such as telecommunications. There have also been threats of further sell-offs in areas such as Health Commission activities and further job losses within the Department of Transport. My questions to the Minister are:

1. How can the Government claim to be accountable to the Parliament when the information flow is totally at the discretion of the Executive itself?

2. What contracts are currently being considered and what timetables are attached to the contracts regarding decisions?

The Hon. R.I. LUCAS: I will refer the honourable member's questions to the Premier and bring back a reply but, as the honourable member indicated, in the Premier's announcement last week this is all a question of balance in terms of responsibilities. The Hon. Mr Elliott would want to be running Government from the leadership of the Democrats and having access to every last docket, memo, and contract and controlling whatever goes on in Government. There are others in the Parliament who are a little more sensible than the Hon. Mr Elliott and who would like to see some change to the balance. That is, in essence, what the Premier laid down last week in his ministerial statement. It is a significant change from the days of the State Bank.

Certainly, it is correct to say that this Government will not bow—indeed no Government will do so—to the wishes of the Hon. Mr Elliott where everything has to be revealed to him as the Leader of a fringe Party in the Upper House of South Australia with support from less than 10 per cent of South Australians. That is not the way to run government in the 1990s. That is not the way to conduct business and that is not the way to get the balance right in terms of the respective roles of Government and Parliament in relation to these issues.

This is an important issue. That balance must be achieved, and the Premier's announcements last week were a very significant step down that path. I thought the Hon. Mr Elliott indicated that the Public Works Committee, as now constituted, had no limit in terms of the dollar value of projects referred to it. I will refer to the *Hansard* tomorrow but, if that is what the Hon. Mr Elliott suggested, my understanding is that that is incorrect. In terms of projects that are referred to the Public Works Committee, a $4 million limit applies. Certainly, we can check that aspect of the honourable member's question and see whether the question was correct in terms of the information that the Hon. Mr Elliott provided. I will then refer the question, perhaps with some corrections, to the Premier and bring back a reply as soon as I can.

MATTERS OF INTEREST

COOPER CREEK

The Hon. T.G. ROBERTS: The matter that I should like to address has been raised in questions from the Opposition and the Democrats, and I am sure that the Government has concerns about it, as well. I refer to the prospects of an intensive cotton farming project in Queensland that might impact on the Cooper Creek system in South Australia. That real fear exists, not only in the mind of conservationists but also for good, sound reasons in the mind of all members of Parliament who have an interest in conservation and the protection of the environment.

I was asked what was the Queensland Government's view prior to the by-election in Mundingburra, so I contacted the Minister for the Environment and Heritage to get some assurances, both for environmental groups and organisations and for other members of Parliament, particularly Democrat members, to try to get an update, and, if not a final position, at least a firm commitment that the project would have little or no chance of surviving a full EIS, if an EIS were to be conducted in Queensland. In that case, we would not have to concern ourselves with taking some form of action federally or through cooperation with New South Wales to try to stop the project.

My view was that, if the project went ahead, it would be the first case of environmental damage caused by the activities of environmentalists, and that the course of action that they set out on would put them in breach of the law. That might lead to serious confrontation and damage to property and to the people taking part in any demonstrations. I was able to get from the then Queensland Minister a commitment that the environmental impact statement would take into account the concerns that we in this State have. I also set up a meeting with Tom Barton, but, because it fell right in the middle of the by-election, I decided to go to Townsville to see what were the chances of a Labor victory and whether there would be a change of Government. I convinced myself that it would be very lineball, but the problem we have now is that we will be dealing with a different Government whose position might change. However, I inform the Council as to the previous Government's position in relation to this important project. The Minister for Environment and Heritage asked one of his minders to respond, and the letter states:

> The officers of the Department of Environment and Heritage also have significant concerns regarding this type of development in arid zone land systems. Matters such as:
>
> · environmental flow requirements to maintain the biodiversity of habitats and communities within and adjacent to the Cooper Creek riparian zone;
>
> · the potential increase in downstream sediment loads and consequent situation;
>
> · the potential increase in chemical and nutrient loads associated with the proposed development;
>
> · the need to investigate the potential mid to long-term salinity effects resulting from the proposed development; and
>
> · the need for equitable access to available surface water across the catchment;
>
> all require careful consideration. Because of the potential environment impacts of this proposal, Mr Barton will be seeking the cooperation of his colleague the Hon. R. Gibbs, MLA, Minister for Primary Industries and Minister for Racing to invoke the precautionary principle in relation to his department's consideration of the proposal.
>
> The Department of Environment and Heritage will also be seeking a full and comprehensive assessment of the environmental impact, including a detailed examination of all the evidence available in relation to similar developments in the arid zone of other States.

The previous Government had those considerations in mind when it did its examination, and I hope that all members of this Chamber, and in the other place, would bring pressure to bear to make sure that the incoming Government has the same concerns.

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

TOBACCO COMPANIES

The Hon. CAROLINE SCHAEFER: If my five minute speech were to have a subtitle it would be 'It could only happen in America'. The American TV show *60 Minutes* recently aired an interview with a Jeffrey Wigand, a former executive of Brown & Williamson's tobacco company, in which he alleged that the company had lied about nicotine, about cancer-causing additives and about refusing to make safer cigarettes. Wigand alleges that cigarette companies have the ability to produce a non-cancer causing cigarette, but they will not do so because it would be non-addictive. He also claims that tobacco executives have lied to a congressional inquiry on the effects of tobacco.

Needless to say, this has unleashed a flood of legal actions, with at least four States suing tobacco companies and those companies counter-suing. The tobacco industry is under attack on numerous fronts, including a criminal investigation by the Justice Department as to whether top executives committed perjury in their spring 1994 testimonies. The Justice Department is also examining whether the tobacco companies conspired against developing safer cigarettes. The Food and Drug Administration has also proposed regulating cigarettes as a drug, and the industry is the subject of class action, personal injury suits, and the State of Mississippi and four other States are suing to try to recoup the health care costs of smokers.

B&W has filed a case against Wigand, and other actions have taken place. The Attorney-General of Texas has filed a suit against the tobacco companies and the tobacco companies have counter-sued. Various State departments have been accused of trying to pre-empt threatened lawsuits by the State. A Florida court has permitted airline flight attendants to sue tobacco companies for secondhand smoke-related health problems. The Attorney-General for Mississippi has been sued regarding the release of evidence given by Jeffrey Wigand.

The Hon. T.G. Roberts: He sounds like an *agent provocateur* for the legal profession.

The Hon. CAROLINE SCHAEFER: It sounds like *Melrose Place*. The family of Jeffrey Wigand have received personal threats. Several tobacco firms have filed a lawsuit against the FDA seeking injunctions against what they consider an illegal overstepping of the limits of the FDA's congressionally approved authority. In California, information was mailed anonymously to the university regarding the adverse health effects and the tobacco companies have sued to have that evidence released. Brown & Williamson have filed a lawsuit against Jeffrey Wigand and have accused him of lying in the same way as he has accused them. There are lawsuits in the State of Texas and additional lawsuits in the State of California.

The Hon. T.G. Roberts: Who is not filing one?

The Hon. CAROLINE SCHAEFER: I do not know that. There do not appear to be many who are not suing or countersuing. The interesting thing is that no-one seems to have come to terms with the fact that tobacco is a legal drug and that any such suits would be retrospective.

I raise this matter not only because I found it interesting but also because we seem to have the rather silly habit in this country of following America in many of the things that they do. While I am not a smoker, and would advise most people not to be smokers, I see the ramifications of this type of suing and countersuing, particularly in relation to medical costs, as being quite dangerous and something that State Governments and tobacco companies should take heed of.

STATE ELECTION

The Hon. SANDRA KANCK: In the lead-up to the last State election, the Liberal Party made a number of promises to a very disillusioned electorate, which was still suffering from the shock of the State Bank collapse. On two very important State issues—health and education—the Liberal Party made fair and responsible pre-election promises. They pledged to increase the health budget by $6 million with a view to halving the hospital waiting list within their first term, and in education they promised that no schools would be closed. Not only were these promises broken, but generally budgets were slashed.

The new Liberal Government's excuse for breaking its promises was all too familiar: in Opposition, it was not aware of the extent of the financial crisis facing our State. However, this wellknown excuse for breaking promises is being replaced by a more sophisticated means; that is, through the appointment of Audit Commissions set up to assess the Government finances. This has occurred in other States besides South Australia, namely, New South Wales, Tasmania and Victoria, and now it is also being promised at the Federal level with the Liberal Party's Treasury spokesperson promising us an Audit Commission after the next Federal election if they become the Government.

The big political advantage of Audit Commissions is that not only can the Government conveniently renege on its pre-election promises but, further, they can be used to legitimise radical changes to the role of the State. We can expect to see further reliance on market forces, and a reduction of the level of Government intervention generally if the Liberals win the Federal election because they will be using an Audit Commission.

Wherever they have occurred, Audit Commissions have been presented quite dishonestly to the unsuspecting public as an academic non-political assessment of Government business. While the study of so-called positive economics may be an objective scientific study, the application of economics in policies is ideologically based and thus very political. Because the majority of people are not knowledgeable about the intricacies of Government economic and accounting practices—or, if they are, they do not have the time or resources to undertake an extensive study—we are left to trust the outcome of such reports.

In South Australia, the Centre for Labour Studies at the University of Adelaide has had the resources to undertake an alternative study. Soon after the release of the official audit report, it provided South Australians with its own study. It had many criticisms of the official report, about which I do not have time to elaborate, but, arguably, the most blatant political use of the official report was the over-exaggeration of the level of debt. All South Australians agree that this State accrued an unacceptably high level of debt under the Labor Government, but most fair-minded and responsible people have not accepted the Brown Liberal Government's decision to slash spending in very important areas such as health and education. Overwhelmingly, the people of South Australia did not agree to the privatisation of our most important resource—water.

In the current Federal election, the Liberals, once again the expectant incoming Government, have made all the anticipated pre-election promises and they have also made the promise to establish an Audit Commission. Having experienced the Brown Liberal Government's response to our State's Audit Commission, we should not be surprised to see a radical change in the role of Government at the national level. We will see a further reliance on market forces and a reduction of Government intervention. The traditional Australian culture of giving everyone a fair go can be found in the pre-election campaign rhetoric. However, we need to go beyond the rhetoric. Should a Federal Audit Commission go ahead, we can expect this to be the justification for Government cutbacks and higher levels of privatisation, just as has occurred in South Australia over the past two years.

GOVERNMENT ACCOUNTABILITY

The Hon. T. CROTHERS: Today, I want to use my five minutes to talk about the public accountability of democratically elected governments. Members who were present yesterday during Question Time would have heard me ask a question of the Minister for Education and Children's Services which I have to say, in my view, was answered, if at all, somewhat arrogantly. I served on the back bench of the former Government of this State, the Bannon-Arnold led Labor Government, which was swept away in the election of 10 December 1993, and quite rightly swept away by the public of this State who were less than satisfied with the manner and the way in which the then Arnold led Government had handled the affairs of the State through its control, if you like, as the Government, of the State Bank.

I might say that, as a member on the back bench of the Labor Party, and let me put it on record, I knew about five minutes after the public of South Australia were told about what had occurred within the State Bank. Such arrogance in Government in respect to accountability is something that has left me—and others who were on the back bench of the Labor Party at the time it was in Government—with a somewhat bitter taste for people who would indulge in the public arrogance of withholding information from the South Australian public.

The Hon. Sandra Kanck: They did not learn from the State Bank, did they?

The Hon. T. CROTHERS: They have not learnt one iota. In fact, the present Government is exhibiting much more arrogance than I have ever seen in relation to accountability—at least as exhibited by some of the Ministers—to the public of this State for some of the actions they undertake. We only have to look at the cancellation of a week's sitting of this Parliament and at the arrogant answers given by some of the premier Ministers in the Cabinet: it was cancelled to prevent the Opposition from having fun and games by asking questions of the State Government—

The Hon. Sandra Kanck: Difficult questions.

The Hon. T. CROTHERS: —difficult questions of the State Government—that might impact on the result of the Federal election. How dare the Opposition exercise the democratic role that Oppositions do in Westminster Parliaments!

The Hon. R.D. Lawson interjecting:

The Hon. T. CROTHERS: The interjection by the Hon. Mr Lawson QC really does display a great lack of depth on his part of political nuance, if he interjects with great levity at the statement I have made in relation to the Westminster democratic processes. I urge him to go and get some of the books that are possessed by the Clerk of the House in respect of the processes of Parliament so that he might catch up on that which he appears to lack, by way of his interjections. Having disposed of that matter—

The Hon. R.D. Lawson interjecting:

The Hon. T. CROTHERS: —and I will dispose of him again if I have to if he keeps interjecting, I believe the manner in which this State Government cancelled that week's sitting of the State Parliament is a matter that ought to be taken on board by the backbenchers in another place, in particular the members who represent the 10 marginal seats, those 10 marginal seats that they will not hold next time around. This Government wants to continue its arrogant ways by not accepting the lessons that it should have learnt from the previous Labor Government. It is not ensuring that not only what it is seen to be doing can be understood but also that it be paraded before the public. All the nonsenses that we have heard as to why Governments should not be responsible to the public during election periods are just that: they are nonsenses and they are to be scorned.

VERGINA PROJECT

The Hon. J.F. STEFANI: Today I wish to speak about the successful South Australian Greek community project known as the Vergina project, which was first presented to the Greek community on 24 April 1995. The aim of the project was to raise a minimum sum of $20 000 which would assist with the ongoing excavation work undertaken by a dedicated team of archaeologists working at Vergina, a world famous burial site, where the tomb of Philip II was first discovered in 1977. The tomb is believed to be of the period 359 to 336 BC. It was built in the form of a vaulted building with a marble door set between Doric half columns and pilasters. The structure was buried under a mound of earth about 14 metres high and about 110 metres in diameter.

In the larger of the two chambers were the bones of a man who had been cremated, together with a magnificent gold wreath of oak leaves. The bones were laid in a solid gold casket known as a larnax, which was decorated with a 16 pointed star, the emblem of the Macedonian royal house. In the smaller chamber were bones of a young woman wrapped in gold and purple clothing and placed in a similar casket. Amongst the extraordinary richness of the discovery were silver vessels for a banquet, bronze implements for bathing and ivory carvings for a couch, amongst which were miniature portrait heads of Macedonian royalty, all of exquisite quality. Most remarkable, also, were remains of a painted hunting scene on the frieze of the tomb's facade. With a variety of action and evident mastery of representational techniques, this fragile and superb fresco is one of the rarest and most remarkable examples of ancient art.

The finds at Vergina powerfully evoke the life of the Macedonian king, Philip II. I was privileged to visit the ancient burial sites on three different occasions and, following my second visit in July 1993, I was inspired to initiate the Vergina project on behalf of the South Australian Greek community. The project was under the patronage of Mr Spyros Aliagas, Consul-General of Greece, and supported by the Pan-Macedonian Association of South Australia and the Vergina Greek Women's Cultural Society as well as the entire Greek community of South Australia. The project raised the sum of $25 291, or 3.976 million drachmas. The money raised, together with a commemorative black marble plaque, were presented at the 1995 Adelaide Dimitria Festival to Mr Ioannis Glavinas, a member of the Greek Parliament who had travelled to Adelaide for the special presentation and who represented the Minister of Macedonia and Thrace, Mr Kostas Triaridis.

I felt that by initiating and promoting the Vergina project I was in but a small way expressing personal gratitude to the Greek Government and the Greek people who have enabled me to visit Greece and many of the special historical places, including Vergina. With the assistance of Mr Ariagis, the Consul-General, His Excellency the Ambassador of Greece, Mr George Constantis, and the Ministry of Macedonia and Thrace, formal approval had been received for the project from the Greek Government in early 1995. The South Australian Government also granted official approval for the exclusive use of the State emblem, the piping shrike.

I would like to express the strong feelings that I experienced when I first conceived the idea of the project and began designing the plaque, incorporating the map of Australia and our State emblem. I wanted the plaque to represent and express the strong love and affinity for the cultural identity that all my Greek friends in South Australia continue to hold for their wonderful motherland and for Macedonia. I also wanted the plaque to be a permanent and tangible way of demonstrating the continuing connection that my Greek friends have with the Hellenic culture in one of the most famous and historical burial sites in the world, the tomb of Philip II at Vergina. I trust that both the project and the plaque have correctly identified and expressed the feelings in the hearts of the many South Australians of Greek origin whom I am privileged to represent in the South Australian Parliament.

Finally, in expressing my sincere gratitude to the South Australian Greek community, I would like to acknowledge the generous support that many individuals and numerous community organisations have made by way of cash and other donations to make the Vergina project an outstanding success.

BILL OF RIGHTS

The Hon. R.D. LAWSON: I wish to speak on the subject of proposals for a Bill of Rights. The Law Council of Australia has released a draft Bill of Rights claiming that it has a desire to stimulate public debate on how the rights and freedoms of Australians should be protected. The draft Australian Charter of Rights and Freedoms, as it was called, was drafted by a working group of the Law Council and takes the form of proposed Commonwealth legislation. The Law Council in releasing the document stated that it itself had formed no view on the threshold question of whether Australia needs a Bill of Rights. The President of the council, Mr Fowler, was quoted as saying that something concrete was needed to push the debate along. The council claimed that its draft charter is one of the most significant contributions made to the Bill of Rights debate by a private organisation and represents a deliberate attempt to keep the issue apolitical.

The Law Council did not engage in widespread (if, indeed, any) consultation with the membership of its constituent bodies before promulgating its draft charter of rights. The legal profession was not consulted. One might be forgiven for suspecting that this particular measure is being driven from within the organisation rather than from the membership. I should say at the outset that I remain to be convinced of the need for any written Bill of Rights, especially having regard to the activism of the High Court of Australia in establishing in recent years certain implied rights and freedoms from the existing Constitution. Sir Harry Gibbs, a former Chief Justice of the High Court, has said:

> If society is tolerant and rational, it does not need a Bill of Rights. If it is not, no Bill of Rights will preserve it.

That is a valid point, in my view. The famous American judge, Learned Hand, said:

> Liberty lies in the hearts of men and women. When it dies there is no constitution, no law, no court that can do much to help it. While it lives it needs no constitution, no law, no court to save it.

It is worth examining the history of proposals in recent times in Australia for a Bill of Rights. In 1973 the Federal Human Rights Bill was introduced by then Senator Murphy. It was not proceeded with. Three years later the International Covenant on Civil and Political Rights came into force, and that was adopted by Australia, with some reservations, by the Fraser Government in 1980. In 1984 the Human Rights Bill, based on the international covenant, was again introduced but, once again, abandoned. It was said to have been torpedoed by the then Premier of Queensland thanks to a political blunder by the Foreign Minister, Senator Evans. Between 1985 and 1988 the process of constitutional referenda was gone through as a result of the Constitutional Commission chaired by Sir Maurice Byers.

One of the four referendum proposals that went to the Australian people in 1988 was intended to extend to the States the right of trial by jury, freedom of religion and fair compensation for private property taken by the Government. On 3 September 1988 the rights and freedoms proposed were defeated in the worst ever constitutional referendum result. In the time available to me I am unable to complete this brief historical perspective of the Australian attempts to impose a Bill of Rights but will do so on another occasion.

EMPLOYMENT

The Hon. R.R. ROBERTS: I want to make a contribution about the effect of State Government policy on the employment prospects of people in the electorate of Grey. Since the election of the Federal Government three years ago Grey has been represented by a Liberal member, Mr Barry Wakelin. Mr Wakelin at this time of the political cycle, is out doing electioneering things and is blaming everything on his Federal Labor colleagues.

It is worth while raising the issue of the effect of State Government activities on the electorate of Grey and pointing out that there has not been one squeak of protest about that from the member for Grey to his State colleagues' closing Highways and EWS camps, cutting back on hospitals, reducing teachers, and ripping out SSOs.

The Hon. Diana Laidlaw interjecting:

The Hon. R.R. ROBERTS: And not only the member for Grey: you want more. The member for Frome has been absolutely silent; the member for Eyre has not opened his mouth; and neither has the member for Flinders. They want to blame the Federal Government. The member for Grey is the man who said, 'It's too little too late', after the State Government had applied to the Federal Government, to Senator Collins, for rural relief three months late and, instead of getting the $3.2 million it had asked for, it was announced that Senator Collins was going to give it $11.3 million. This is the sort of lateral thinking that we have from the incumbent member for Grey.

A whole range of issues have been announced in relation to the electorate of Grey. This is the member who, in the electorate of Grey, wanted to pay juniors $3 an hour and wanted senior people to work for the dole. Since he has been the member the Federal Government has poured money into training for juniors and announced additional training because the people in that electorate are going to need it, because the State Government has reduced the quality of education in South Australia and that will have to be picked up with further training.

This is the member who has condemned the fact that the Federal Government has provided new job opportunities in the electorate of Grey. He is saying that, in his view, all the problems of unemployment in the electorate of Grey can be put down to the Federal Government, which is patently untrue. The figures clearly show that youth unemployment in the electorate of Grey, when the previous Treasurer of the

Liberal Government, John Howard, was in power, was much higher. You have to take that into context, because since 1982 there have been reductions of positions and the removal of career paths for people in South Australia and in the electorate of Grey. High technology has been introduced into industries and there are not as many job opportunities. It is most disappointing that there has not been one squeak of protest from this member of the Liberal Party to his colleagues as they cut and destroy job opportunities for country South Australia.

Recently I received in my letter box a letter from the member for Grey seeking reendorsement for another term in Parliament. He canvassed a whole range of issues that he said he had been looking at—most were other people's ideas. He said that he had asked questions about tele-centres, SBS and a whole range of other issues which have already been taken up and, in many cases, accepted by the Federal Government. He made the observation that Austudy was not universally available. His only claim to fame is that he had achieved a stop sign at the Warnertown crossing—hardly a ringing endorsement for re-election to the seat of Grey. I made submissions to the State Department of Road Transport—

Members interjecting:

The Hon. R.R. ROBERTS: —and I have made submissions in the past about lights at that crossing. Whilst we applaud the safety aspect of it, it is worth noting that the symbol of achievement of the member for Grey in this electorate is something which impedes the progress of people in the electorate of Grey. I hope that I have given some insight to members in the Council of this State Government and the Federal member for Grey on the effect of employment opportunities in the electorate of Grey.

BAROSSA SIGNS

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

That District Council of Barossa by-law No. 8 concerning moveable signs on streets and roads, made on 3 October 1995 and laid on the table of this Council on 24 October 1995, be disallowed.

This by-law made by the District Council of Barossa concerned moveable signs on streets and footpaths. It includes provisions for the issuing by the district council of licences for moveable signs, the payment of a fee of $25 and other matters relating to such signs. Section 370 of the Local Government Act permits and empowers councils to prohibit and regulate moveable signs, and many South Australian councils have exercised that power. However, the section does not authorise the issue of licences or the charging of licensing fees for moveable signs. In this respect, section 370 can be contrasted with other provisions that specifically authorise licensing in certain other areas.

The by-law was considered by the Legislative Review Committee, which took the view that this by-law was not authorised by the Local Government Act. This is a view which accords with legal opinion obtained by the Local Government Association of South Australia. If Parliament considers that the licensing of moveable signs is an appropriate response to the undoubted problems created by this form of advertising, the Legislative Review Committee considers that the Local Government Act itself should be amended to make specific provision for licensing.

In the meantime, if this motion is carried the district council will be free to adopt the measures which many other councils have adopted in relation to moveable signs but without the offensive provisions relating to licensing. I commend the motion to the Council.

The Hon. T. CROTHERS secured the adjournment of the debate.

LIGHT SIGNS

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

That District Council of Light by-law No. 8 concerning moveable signs on streets and roads, made on 10 October 1995 and laid on the table of this Council on 24 October 1995, be disallowed.

I refer members to the remarks that I have just made in relation to my previous motion.

The Hon. T. CROTHERS secured the adjournment of the debate.

ANGASTON SIGNS

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

That District Council of Angaston by-law No. 8 concerning moveable signs on streets and roads, made on 9 October 1995 and laid on the table of this Council on 15 November 1995, be disallowed.

This by-law made by the District Council of Angaston has the same infirmities I referred to in relation to the by-law made by the District Council of Barossa.

The Hon. T. CROTHERS secured the adjournment of the debate.

TANUNDA SIGNS

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

That District Council of Tanunda by-law No. 8 concerning moveable signs on streets and roads, made on 9 October 1995 and laid on the table of this Council on 14 November 1995, be disallowed.

This notice of motion relates to the by-law of the District Council of Tanunda which is similar in terms to that of the District Council of Barossa, to which I referred a moment ago. The same reasons are stated in support of the motion.

The Hon. T. CROTHERS secured the adjournment of the debate.

PARKLANDS

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

That recognising that the Adelaide parklands and, in particular, Victoria Park are part of the natural heritage of this State and were secured by Governor Gawler on behalf of the Crown for the inhabitants of the city in 1839 to be maintained in their natural state for the enjoyment of future generations, this Council ensures that—

1. any legislation providing for major events does not allow any activity or event which threatens or damages the inherent character of the Adelaide Parklands and in particular, the Victoria Park precinct.
2. such a Bill does not provide for the circumvention of normal rights of citizens in relation to the enjoyment of the parklands either by stipulation in the Bill itself or by granting of delegatory powers to the Executive.
3. no additional building occurs on the Adelaide parklands and, in particular, the Victoria Park precinct, including, but not limited to, event lighting, fencing or other facilities.

On Monday evening, the Adelaide City Council agreed to allow a four day international equestrian event to be held in the Adelaide parklands in 1997. The event will involve the Victoria Park racecourse in a cross-country event, which will wind through the parklands to the city's East End. I must say that, personally, I do not have any concern about an equestrian event in itself being held in the parklands, but one wonders what ramifications will flow from this. We have only to look at the history of the Grand Prix to realise that there can be reasons for concern.

There was much debate about what would be the impact of the Grand Prix in the parklands and, as a consequence of that debate, for the most part, permanent structures were not built in the parklands. We ended up with temporary structures that were not in the parklands for about three months of the year. Towards the end of the life of the Grand Prix (before we knew it was the end), proposals were coming forward to start incorporating permanent structures into the parklands, perhaps as part of upgrading the Victoria Park racecourse. What we saw as being originally temporary in nature and meant to be non-invasive (although many people would disagree, saying that it was anything but that) was becoming increasingly invasive and again leading to further alienation of parklands.

It is quite understandable that residents should be concerned that the announcement of an international equestrian event could by degrees lead to further alienation of parklands, because for any substantial period of time there has never been any real commitment to protect the parklands. The Adelaide Parklands Preservation Association has fought many battles to retain the integrity of the parklands, which are one of Adelaide's special and unique features. It has fought moves to fence off sections of the parklands for sectional interests and does not want to see an increase in the number of events which charge admission fees to the parklands. For several years the group has been attempting to have the parklands placed on the State Heritage Register, but has been thwarted by complications caused by the large number of lessees and permit holders. I understand that negotiations are and have been under way for a long time.

Many people are concerned about evening and night activities which impact on nearby residents. The latest threats to the integrity of the parklands began in December last year, when a public meeting was called at short notice to inform residents and other interested individuals about proposed changes for the usage of Victoria Park. One Adelaide resident was so concerned about the lack of public knowledge of the meeting that he letterboxed the area, informing other residents about the future of the park and raising issues.

A Victoria Park feasibility study by the Hassell Group—four pages and a map—was handed out at the meeting, which study sought to increase the commercialisation of Victoria Park. I understand that the draft discussion paper, which has now lapsed, included about 40 ideas for the area. It was disturbing to many residents because of its general thrust, which some said sought to make the parklands more of a showground than parklands.

The paper's thrust appeared to be the area's potential for income generation, its potential use for a broad range of recreational and entertainment uses, for the enhancement of activities in the CBD and to promote economic development. It is worth noting that the original Adelaide showgrounds were in the northern parklands and, having been alienated for showground purposes, the site was eventually taken over by the University of Adelaide and the showgrounds moved out. It shows how usage changes by gradual creep, and it is one-directional change with increasing intensity of development.

I have been told that locals were disturbed that community friendly options of keeping it open space were not considered. A public meeting held on 21 January this year resolved that: Victoria Park, as part of the parklands, remain open space with free and unrestricted public access; further commercialisation of Victoria Park be opposed other than the current South Australian Jockey Club events; no legislation be passed depriving residents of their rights relative to noise, pollution, curfews, traffic and parking controls; and that the resolution be conveyed to the Government of South Australia, the City of Adelaide and local councils adjacent to Victoria Park.

A great deal of concern remains that the State Government now intends to change the Grand Prix Act to a major events Act at short notice, even in this session (I must say that, given the number of Bills coming up at short notice, one would not be surprised if there were more), and that the change would give the Government control over the legislative requirements which otherwise exist to protect parklands and other public areas. This would threaten many areas, as the Minister can declare a particular area exempt from the provisions anywhere in the State. This puts in jeopardy the existing protections about noise control, pollution and parking, among other issues. I might add that it is consistent with the sorts of changes where, through the Development Act, the Government and the Minister have sought absolute control to ride roughshod over local government and community groups and to do whatever the Minister deems to be correct—absolute arrogance.

It is worth looking at the history of the parklands to appreciate that the concerns that are now being expressed are not new and are understandable. I will first quote from some parts of a publication by Jim Daly, entitled *A Brief History of Adelaide's Parks*. When talking about Adelaide's parklands, he states:

> Adelaide is one of the few cities in the world to be encircled by parklands. Colonel William Light used the parklands as a major planning feature of the city. Even before the first colonists left England for South Australia in 1836 the value of parklands in cities was recognised as important from a health point of view—the lungs of the city.

A little further on he states:

> In 1843, after the collapse of the first Adelaide City Council, the city commissioners took over the care, control and management of the parklands. By 1852, however, a new council had been elected to once again assume responsibility for the parklands. Over the last 150 years of Adelaide's growth a number of attempts have been made to use the parklands for other purposes. Although approximately 80 hectares have been alienated over the years it is amazing that Adelaide has managed to retain a significant proportion of its parklands. The Government is also committed to returning some of the alienated areas to parklands.
>
> You can see on the original 1837 map drawn by Colonel Light that there were only nine Government reserves taking up 380 acres [150 hectares] of parklands . . . If you compare this plan with the present plan of Adelaide . . . it is easy to see the areas of parkland that have been used for other purposes.
>
> The largest area has been taken by the railways: 51 hectares have been occupied progressively since 1853. Despite the obvious areas taken from the parklands for other purposes, it cannot be said that all the decisions were against the public interest. For example, the provision of the institutions along North Terrace, and the Adelaide Festival Centre, are assets to the city and are appropriate uses for the parklands. Approximately 700 hectares of parklands are left. In recent years some Government departments have returned areas to public use and it is hoped that this policy will continue. As the city develops and more people work, live and play in them the parklands will become our most important asset. No other city of comparable size can match Adelaide's magnificent parklands.

Approximately 130 sporting clubs have grounds in the parklands. These include cricket, football, soccer, rugby, tennis, golf, netball, hockey, lacrosse, croquet, archery, and equestrian activities. Some Government departments and institutions have also claimed the right to use areas that were once parklands.

One of the most important policies concerning the parklands was the development of the Adelaide Plan in 1974. This plan has been revised on a number of occasions and now the City of Adelaide Development Control Act lays down general principles and details the activities allowed in each park precinct. The Act provides a positive commitment to the protection of the parklands.

One of the most useful histories I have found is 40 years old. The Adelaide *Advertiser* of 24 November 1956 contained a very good article of the sort we do not see much these days, written by Stewart Cockburn, titled, 'A Glance At Our Parkland History'. It states:

What should be done with the parklands, or parts of them, is again kindling vehement, even bitter, argument in Adelaide.

Note that this article was written in 1956. It continues:

As pressure grows for enclosure closure of yet another section of this 'common land', a glance at the facts of history is worth while. There are now 1 600 acres of free parkland open to the public. Originally there were 2 300 acres. About 700 acres have therefore been alienated in 120 years.

The original survey of Adelaide was completed early in 1837. The plan then prepared by Colonel Light showed the city surrounded by a large area of vacant land.

In strict accordance with instructions from the Colonisation Commissioners in London, he described this land as 'parklands for the use and recreation of the citizens'. From this description, he reserved nine blocks for various stated Government buildings and other purposes. They were:

1. Government House Reserve.
2. Barrack Reserve (now the Parade Ground and Torrens Drill Hall).
3. Guard-house Reserve (a small block between Government House and the Parade Ground, now the Women's Memorial and other gardens.)
4. Hospital Reserve.
5. Cemetery Reserve (West Terrace).
6. Market-place Reserve.
7. Botanic Garden Reserve.
8. Stores Reserve ('under the hill at North Adelaide').
9. School Reserve.

The original sites for some of these reservations were changed. The School Reserve, for instance, was marked by Colonel Light on the North Adelaide section of the parklands.

Relying in principle on the original proclamation, the present State Government erected the Adelaide Boys High School in the West Parklands in 1950-51. The Royal Adelaide Hospital, the Botanic Garden and the market were also developed on sites other than those originally marked for them. Early newspaper files and parliamentary debates contain much evidence that strong sections of public opinion decided right from the beginning that the phrase, 'use and recreation of the citizens' meant 'all the citizens'. These sections vigorously opposed further reservation or permanent enclosure of parkland for special groups of citizens. They said all the land and all facilities on it must be open to the public at all times.

In 1849, the Government enacted that the parklands should be under the care, control and management of the City Council, but that they should remain vested in the Crown.

The Municipal Corporations Act 1849 made it unlawful for the City Council to sell, alienate or lease any part of the parklands. Under the provisions of this Act, however, the Government transferred only 1 920 of the 2 300 original parkland acres to council control. The balance, 380 acres, including Colonel Light's original reservations, was retained for Government purposes. All the public and administrative buildings on North Terrace, Kintore Avenue, King William Road, Frome Road and Hackney Road stand in these 380 acres. They include the Railway Station, the Museum and National Gallery, the University, the School of Mines, Parliament House itself, the City Baths and the Tramways Trust car barn and offices. The Adelaide Gaol and the Zoo are also on the parklands.

Some historians hold that Colonel Light would have preferred to see most of these buildings erected on town acres instead. They say Adelaide would have been even lovelier than it is if, for instance, the public buildings on North Terrace had been on the south side of the Terrace, facing an uninterrupted expanse of lawns and trees sloping down to the Torrens.

Arguments on the subject ran hot as far back as 100 years ago, and 79 years ago, on 12 November 1877, the then Speaker of the House of Assembly, Sir George Kingston, said in a famous letter to the *Advertiser*:

> I deny the right of the Government to interfere with or make use of any portion of the parklands not specially reserved or set apart for Government purposes by Colonel Light . . . I think I may be excused for claiming to speak as an authority on this subject because my official position as next to Colonel Light on the survey staff gave me the best opportunity for knowing every detail of his plans.

Down the years, and despite both Light and Kingston, the 1849 Act has been amended several times. As a result, the City Council has been permitted to lease another 140 acres for sports purposes to the trustees of the Adelaide Oval (about 15 acres), the S.A. Lawn Tennis Association's Memorial Drive courts (six acres), the University oval, teacher training college sports ground and Railway Institute sports ground (each about 10 acres), the koala bear farm, and several bowling clubs (about three acres), and the Adelaide High School sports ground in the West Parklands (about 26 acres).

Victoria Park Racecourse is also held under lease from the council. Colonel Light himself selected the site as a racecourse, according to one authority, John Arrowsmith's plan of Adelaide issued in London in 1839.

All these leases can be cancelled by the City Council when they expire, but although not permanently legally alienated, political pressures against cancellation of leases on which grandstands and other permanent buildings have been erected would obviously be tremendous.

The leases outlined above have been granted under section 457 of the present Local Government Act. This allows the council to lease not more than 10 acres for the purpose of sports, games, agricultural shows or public recreations for up to 21 years. Ratepayers' meetings and, if requested, ratepayers' polls are necessary before such leases can be granted.

Under section 458 of the Local Government Act the council itself may construct golf links, tennis courts and other sporting facilities in the parklands. But recent legal advice to the State Government is that section 458 probably does not authorise establishment of an enclosed oval similar to the Adelaide Oval. One leading South Australian lawyer has expressed the opinion that 'the right to construct facilities for sport' does not include the right to fence off a large area of the parklands for the construction of an arena into which the public will be admitted only on special occasions and usually only on payment of a fee.

Permits to play sport on more than 400 different spots in the parklands are now issued annually by the City Council. They are cricket (82), football (56), tennis (184), hockey (13), croquet (4), athletics (2), basketball (18), volleyball (5), baseball (29), ring bowls (3), softball (8), archery (1) and lacrosse (8). In addition, there are municipal golf links and more than 30 children's playgrounds.

The case of the PMG Garage in the West Parklands is often quoted by those who oppose further alienation on the grounds that 'temporary' encroachments tend to become permanent.

Originally a Government signal (telegraph) station, the garage was taken over by the Commonwealth from the State on Federation. Former city councillor, J.S. Rees, an authority on the parklands, says that about 25 years ago the then Federal member for Adelaide, Mr Yates, obtained an assurance from the Postmaster-General of the day that the site would be returned to the ratepayers of Adelaide as soon as possible.

I might add as an aside that it did, some 40 years later, and that is 40 years after the 25 years ago mentioned in the article. I continue quoting from the article as follows:

The Commonwealth even bought a property in Currie Street for use as an alternative garage, but so far nothing has been done, and there is no present sign of the Commonwealth moving out.

In addition to alienations for public buildings and other purposes described above, about 180 acres have been chopped out of the original 2 300 parkland acres for roads, railway and tram tracks.

Colonel Light himself visualised these inevitable encroachments.

Already, there are about 35 different road, rail and tram exits from the city through the parklands and others may yet be proposed as Adelaide grows and traffic becomes denser.

An enclosed oval as now proposed in the South Parklands would probably, with ancillary buildings and facilities, require up to another 20 acres, plus car parking areas.

To oppose any new alienation of the remaining parklands, the Parklands Preservation League was revived in 1948. It was stirred into action again by the Government's decision to build the Adelaide Boys' High School in the West Parklands.

Members of the league include representatives of the National Gallery, National Fitness Council, Field and Naturalists' Section of the Royal Society, Royal Geographical Society, Botanic Garden, Australian Natives' Association and Adelaide Bush Walkers.

The league fears further alienations would be used as precedents for enclosure of additional areas as the years go by.

The State Parliament, of course, has full power to legislate as it likes for the future of the parklands.

With very few changes in words, the article written by Stewart Cockburn on 24 November 1956 represents the current situation. Some Acts have been changed but, in general terms, the problems that he talked about there—and he talked about problems in the preceding 100 years—continue to be the problems that face us today. There is a continual temptation for State Government and local government to put just one more thing on the parklands. It starts off as a temporary alienation. For instance, an activity which perhaps involves a fence for a little while or perhaps just one or two ancillary buildings of a temporary nature which become permanent. There is an investment there and, over time, it is usually a one way track.

There have been only a few cases—and I must say under the previous Government we saw the return of what was the Metropolitan Tramway Trust's land in the north-east corner of the parklands—but it is the exception rather than the rule. Once land has been alienated it tends to be further built up. Also under the previous Government we saw major hotels constructed over the railways' land. This guarantees that that alienation is permanent. In fact, the moment any building is built in an area we can just about guarantee that the alienation is permanent and that there will be further more intense development. I think that is true of every site that has been alienated and that trend continues: they continue looking for that extra slice of land.

The Hon. Diana Laidlaw interjecting:

The Hon. M.J. ELLIOTT: The swimming pool went, but something of even greater value went onto it. In quoting other people I said that certainly there have been buildings of real and ongoing value to people. When I refer to value I am referring to cost—something which guarantees that it can never ever again be removed. The questions are whether we want things to happen, how they should happen and where they should happen. If we are discussing for profit activities, why should a for profit activity not do what all other for profit activities have to do, that is, go and buy the land that it will be working upon. Why should it involve a gift of public land—and that is what it is—which will become a permanent alienation of that public land, land which will never be recovered.

We are seeing this happen not only in the parklands of Adelaide, but down at Glenelg where waterfront land is about to be given to developers. The Government is also involved in a significant sell off of open space right around the city. A number of examples of other land have been raised in this place; for example, Blackwood Forest, the land down at Somerton Park or the land in Colonel Light Gardens, which local government has had to buy to ensure that it remains open space. This motion is looking at Victoria Park in particular and at the parklands in general. I must say, from a personal perspective, that in relation to open space, or generally, the time has come to stop the argument that has been ongoing for 150 years. It is time that we drew some lines in the sand—and perhaps more than lines in the sand; they need to be something more permanent—which say, 'We are going no further. We recognise that with growing populations and the pressures arising from that that the remaining parklands must remain freely available to all people, as it was intended from the very beginning.'

From the very beginning there was no doubt about the intentions that Colonel Light and Governor Gawler had for the parklands. It is time for this Chamber to restate that vision, to endorse that vision and to take a clear stand that we will not allow further alienation of the important parklands. It does not mean that the parklands go into mothballs, but it does mean that we will not allow any activity which alienates the land from genuine public usage. I would hope that all members in this place do share that vision, a vision that most South Australians have held for 150 years, and that they will do so by supporting this motion.

The Hon. ANNE LEVY secured the adjournment of the debate.

SELECT COMMITTEE ON OUTSOURCING FUNCTIONS UNDERTAKEN BY EWS DEPARTMENT

The Hon. L.H. DAVIS: I move:

That a message be sent to the House of Assembly requesting that the Minister for Industry, Manufacturing and Small Business and Regional Development (the Hon. J.W. Olsen), a member of the House of Assembly, be permitted to attend and give evidence before the Legislative Council Select Committee on Outsourcing Functions undertaken by E&WS Department.

This is a procedural motion. The Legislative Council's Standing Order 443 requires that when the attendance of a member of the House of Assembly, or any officer of that House is desired, in order that he may be examined by the Council, or any committee thereof not being a committee on a private Bill, a message shall be sent to the House of Assembly to request that the House will give leave to such a member or officer to attend in order to his being examined accordingly upon the matter stated in such message.

The Hon. SANDRA KANCK: At the moment we have four committees of this Chamber looking at various contracts that the Government has put in place. They are as follows: the committee looking into the private management of Modbury Hospital; the committee looking into the private management of Mount Gambier prison; the committee looking at the EDS contract; and the committee looking into the management of South Australia's water system, which has provided this motion. All of them have been set up because Executive Government has bypassed the Parliament in putting these contracts in place. They have been set up because Parliament needs to get to the truth about the processes that were involved in awarding the contracts and to find out the real costs, or benefits, to the State in having these contracts.

The fact that these four committees have all had to be set up is an indication of the arrogance of the Government. Earlier this afternoon The Hon. Trevor Crothers referred to the arrogance of the Government. The Government's arrogance is shown by the fact that these committees have had to be set up. Parliament has been sidelined. Last week we saw the Premier's statement on Government accountability. We understand from that that the information will be dished

out at the Government's discretion. We will get a very censored version of anything that the Government is likely to hand over. I do not know whether or not the Minister's response to the committee was part of that continued arrogance when he said that he could not come unless the House of Assembly gave him permission, but the response of the House of Assembly to this motion will tell us whether or not it is part of that continued arrogance.

It is important that the Minister should appear before this committee so that it can compare his recollection and interpretation of events with that of other people. If he does not appear before the committee, the committee will have had a block put on its investigative powers, and the implications for this Chamber and Parliament would be obvious, and I hope that it will not be the outcome. We will see ourselves on a collision course between Parliament and the Executive. As a member of the committee, I am very keen to see Mr Olsen appear before it. I hope that, following passage of this motion by this Chamber, there will not be any problems in the other place in having him appear before the committee. I am delighted to support the motion.

The Hon. T.G. CAMERON: I endorse the remarks made by the Hon. Sandra Kanck, only I would go a little bit further and say that it is not only important that the Hon. John Olsen attends the water select committee it is vital. He must explain some of the contradictions between statements that he has made in another place and elsewhere and he must explain the contradictory statements that have been made by him and the Premier (Mr Brown), and how these statements sit with other statements that have been made by the water companies and/or their representatives. It is vital that the select committee examines the Minister for Infrastructure on a number of issues, and I would just like to run through some of them briefly.

One of the main areas of confusion seems to be this question of Australian equity. It is a rather curious fact that it appears that the three bidders who were left in the final bidding process all gleaned a different idea from the negotiating committee as to the importance of the question of Australian equity. It would appear that confusion and contradictory statements have surrounded this matter. The Premier and the Minister for Infrastructure often contradicted each other and, as quite clearly shown in another place, on occasions the Premier was kept completely in the dark. It would appear that, on other occasions, United Water, the successful tenderer, had a different view about this question of Australian equity from the Minister for Infrastructure or the Premier. Quite clearly, either someone is not telling the truth, whether it be members of the Government or the officials representing the major water companies, or the tendering process degenerated into such a state of utter confusion that no-one knew precisely what was expected of the water companies.

Let me now underscore the Opposition's view in relation to the Minister for Infrastructure appearing before the committee. It revolves around this question of Australian equity. I would like to put into the record a brief summary of some of the confusing and contradictory statements that have been made. Quite clearly, either someone is not telling the truth or the whole of what was an RFT process and what became an RFP process was conducted with such a degree of incompetence on the part of the Minister, the Cabinet subcommittee and the negotiating team that all the water companies were confused as to entirely what were their obligations.

As I understand it, the final decision on this was made in August, and a whole series of meetings took place between the negotiating team, representing SA Water, and meetings took place with the Cabinet subcommittee, and I hope that there were meetings with the Minister for Infrastructure. It would appear that either something got awfully lost in the communication process or, very simply put, people have been caught with their pants down and decided to lie their way out of some of these contradictory statements.

On 18 October, it was stated by Minister Olsen that 'There will be a public float so that South Australians can become involved in United Water International when it goes into the marketplace.' The idea of a public float appears to have disappeared without trace. The reason for that is that, on 17 November, Mr Malcolm Kinnaird from United Water told the select committee that there is no obligation to sell down. The Chief Executive of the successful water company contradicted the Minister for Infrastructure. Mr Kinnaird and representatives of United Water also stated to the select committee that what they were looking at was an offer to institutional investors and that there would be no possibility whatsoever that the mums and dads of South Australia would be able to participate in a public share float. I can recall the Premier's statement in relation to the sale of the State Bank that it would be offered to the mums and dads of South Australia.

It would appear from the comments that were made by United Water and Malcolm Kinnaird that this question of a public float was either something that the Minister for Infrastructure dreamed up on the spur of the moment when he was under pressure in another place or it was never on the negotiating table between any of the water companies and SA Water. Yet, we have had public statements by Ministers of the Government that there would be a public float. Indeed, on 22 November the Minister for Infrastructure said, 'The Premier and I have consistently put down that there will be a 60 per cent equity in this company within a time frame.' That has changed a little bit. He also said, 'Have no fear: that will end up in the contract.' On the same day, 22 November, we have Brown saying:

> United Water International, a company which at the end of 12 months is expected to have 60 per cent Australian equity.

If we continue further, we see that Olsen on 22 November said:

> We have put down a position on an offer of 60 per cent Australian equity in this company. In my view that is non-negotiable.

That is plain English that anybody could understand. He continues:

> That position will be attained: it will form part of the contract . . . no ifs and no buts and no maybes about that: that will be the position, have no fear.

Yet, both to the select committee, at meetings with the Opposition and in the media, this came as a surprise to Malcolm Kinnaird, the Chairman of United Water International, because he stated that shares would only be offered to institutional investors and only when the company required additional capital.

He went on and said that there would be no offer of shares on the stock exchange and no sale to mums and dads. Was John Olsen lying on 18 October when he said that there would be a public float? Was it a case that the incompetence and mismanagement that has bedevilled this process became

so endemic that John Olsen himself did not have a clue about what was happening? We know that the Premier did not have a clue about what was happening, because it came as a complete surprise to him that two water companies were involved in the deal. They got themselves into hot water over that one, but I suspect that they were able to sort it out with United Water.

The fact is that despite a number of promises, public statements, and soothing words from the Minister for Infrastructure, John Olsen, in relation to the likely participation of investors, we have ended up with a corporate structure which, to say the best, is suspect—at best, it looks like some kind of fancy corporate contrivance in order for United Water to avoid its contractual obligations. More importantly, we have ended up with a company which is 95 per cent owned by overseas interests—by French interests—and we have a company with only a 5 per cent Australian equity, which would appear to be a 5 per cent holding by Malcolm Kinnaird's company. That is a far cry from the 60 per cent that we were promised. On 22 November, Olsen again said:

> . . . we will continue undeterred with the negotiations to get the right deal within the parameters that have already been put down.

Who is telling lies? Someone must be. On 22 November we have the Minister saying, 'We will continue undeterred with the negotiations to get the right deal within the parameters that have already been put down.' One would assume, if we had any semblance of ministerial competence on this matter, that the parameters that were being put down by the negotiating committee, acting, as we have been told, on the directions of the Cabinet subcommittee, of which Olsen and Dean Brown are both members—

The Hon. J.C. IRWIN: A point of order, Sir. The Hon. Mr Cameron continues to refer to Ministers of the Crown by their surnames. I believe that that is against the Standing Order and I think he should refer to them by their proper titles.

The ACTING PRESIDENT (Hon. T. Crothers): I uphold your point of order. I ask the honourable member to use the proper titles.

The Hon. T.G. CAMERON: A very telling point of order on which the Hon. Mr Irwin has challenged me and I am suitably chastened by that. I will correct that in the future for the honourable member. Quite clearly, if the Minister was saying, 'We will continue undeterred with the negotiations to get the right deal within the parameters that have already been put down,' then what went wrong? Who was telling lies? Was the incompetence of such a magnitude that the Minister had one set of ideas about how he wanted this contract to be established, yet it had never been properly communicated to the negotiating committee? I suspect that the Minister just lost control of the negotiating process: we had a situation where the left hand did not know what the right hand was doing. Quite clearly, what the Minister thought that the negotiating committee was telling the water companies—if they are to be believed—was quite different from what he and the Cabinet subcommittee believed that they were telling the negotiators to negotiate on their behalf.

If that is not the case—and I think that is the best assessment you can put on this whole deplorable process—then someone has been caught with his finger in the pie and he is trying to lie his way out of trouble. Some of the members of the select committee are extremely desirous of speaking with the Minister for Infrastructure about his version of events and comparing that version of events with what the water companies are telling us. We have conflicting statements from the water companies. The select committee has spoken to only two of these companies at this stage and, on the one hand, we have one company, United Water, telling the select committee that it believed that Australian equity was a critical part of the bid.

The Hon. L.H. DAVIS: A point of order, Mr Acting President. I direct your attention to Standing Order 398 which states:

> The evidence taken by any committee, and documents presented to such committee, which have not been reported to the Council shall not be disclosed or published by any member of such committee or by any other person without the permission of the Council.

The honourable member—in a way that I have never seen before in this Council during my 16 years—is openly flouting the spirit of the select committee system, which has been a bipartisan system operating for many years, by continually referring—

The ACTING PRESIDENT: Mr Davis, resume your seat for a moment. The Standing Order that you have referred to is not the correct one. It is Standing Order 190, which states:

> No reference shall be made to any proceedings of a committee of the whole Council or of a select committee until such proceeding has been reported.

The Hon. L.H. Davis: Yes, that is correct.

The ACTING PRESIDENT: If that is the Standing Order that you are referring to I will uphold the point of order and I would ask the Hon. Mr Cameron not to refer to any of the proceedings that have taken place in that committee until such time as that committee has been dealt with by this Council as per that Standing Order. Otherwise, the honourable member would be out of order in referring to any of the proceedings of the committee. I would ask him in the rest of his contribution to ensure that he stands by that particular Standing Order of the Council.

The Hon. T.G. CAMERON: Thank you, Mr Acting President. I will not directly refer to evidence that has been given to the select committee. The matter to which I was referring—the question of the conflicting evidence given by North West Water and United Water—has been adequately canvassed in the media, on the radio, and, in particular, in some of the articles that Alex Kennedy has written in the Messenger press. One only has to refer to those articles to see, quite clearly, that United Water believed that it was the successful bidder because it got it right on the question of Australian ownership.

It was able to interpret quite clearly what the negotiating team was telling it. That contrasts with what has appeared in the newspaper about what North West Water has stated. North West Water is one of the largest water companies in the world, one of a handful of companies that have worldwide experience at negotiating contracts of this kind all over the world over the past decade. This is a company that has tens of billions of dollars worth of assets under its control. Yet, we are being asked to believe that one company was advised that Australian equity was critical to a successful bid—that is United Water; we are still to hear from the third water company—yet North West Water put in a bid that contained no Australian equity: not one cent. Its view was that Australian equity was not a critical component of the bid.

One has only to look at the essential requirements set down by the Minister for Infrastructure, I think back in March or April, when he issued a public document setting out what the key requirements of the RFP process would be. Of course, the Minister forgot to tell us at the time when he was

changing from an RFT process to a RFP process that that process would allow or could create a situation where the debacle that we saw on the final day when the bids were due to go in could all take place under the umbrella of the RFP, yet—

The Hon. L.H. Davis interjecting:

The Hon. T.G. CAMERON: If the Hon. Legh Davis wants to interject from the back bench about his version of events or what is the correct version of events, I am sure that he will support this motion. I am sure that he will get on his feet when I conclude and support this motion, because I am sure the Hon. Legh Davis would want to get the right version of events, and to date I am sure that, like me—

The Hon. L.H. Davis: You've got the attention span of a humming bird. I actually moved the motion on behalf of the committee. Can't not remember that far back?

The Hon. T.G. CAMERON: Once again we have the Hon. Legh Davis interjecting from the back bench. He is not backward in making the odd nasty or sleazy comment, hoping that it will not go on the public record. Mr Davis just told us that he has been here for 16 years: it is obvious that he has learnt nothing about common courtesy and decency in that time, as he continues to sledge members of the Opposition from the backbench.

The ACTING PRESIDENT: Order! Both members have been interjecting, and normally that is part of the processes here. But your interjections on one another have been reflecting on each other's character, something I thought we had dealt with very early on in this debate. I ask both members to stop that type of interjection. It does not help the debate that takes place in this place, and I ask both members to continue the debate and ensure that nothing of that nature occurs by way of interjection.

The Hon. T.G. CAMERON: Thank you for your protection, Sir. I know that would have been well meant. In relation to this question of Australian equity and the committee's desire to speak to Mr Olsen, I find it somewhat bemusing that one minute we have the Hon. Legh Davis jumping to his feet, taking a point of order against me for referring to matters being discussed on the select committee, and then he has the hypocrisy to interject from the backbench to refer directly to who moved the resolution at the select committee. He is not backward in jumping up and taking a point of order against me because I make some obscure reference to what North West Water said, but he interjects from the backbench and tells this Council who moved the resolution.

The Hon. J.C. Irwin: He said he moved it as Chair of the select committee.

The Hon. T.G. CAMERON: That is not what he said.

The Hon. L.H. Davis: Read *Hansard* tomorrow. Or get one of your colleagues to read *Hansard* tomorrow.

The ACTING PRESIDENT: Order! I did hear what was said. What Mr Davis did say and did intend to say is that in the honourable member's absence he had moved the motion on the Notice Paper as the first speaker today. He did do that. I think the honourable member is not correct if he is suggesting that the Hon. Mr Davis referred back to something that occurred during the select committee.

The Hon. T.G. CAMERON: It is all very well for the Hon. Legh Davis to interject from the background and state that evidence of his support for Mr Olsen's appearing before the select committee is that he is moving the motion here in the Chamber today. I thought that was his obligation as Chairman of the select committee. I will interpret from what the Hon. Mr Davis has said that not only will he support it and vote for it in this Chamber but that he actually does support the calling of John Olsen to the select committee. One would hope that at the conclusion of this debate he will go and speak to his counterpart in another House and encourage him to accept forthwith, appear before the select committee and clarify some of these anomalies that have come up.

Whilst Minister Olsen's position was that Australian equity was non-negotiable, the Premier was claiming that it was still subject to negotiation. He said on 22 November that there should be a 60 per cent equity after 12 months, and six Australian directors, but that issue was still subject to negotiation. Olsen said the day before, 'It will be in the contract: a requirement for them to sell down for 60 per cent.' Yet, it has been reported widely in the media that United Water's interpretation of this so-called ironclad clause, that it will have to sell down to 60 per cent, is that it is not binding; that it does not have to do it. And, in any case, it will be only to institutional investors.

The RFP did not specify desirable levels of Australian equity. How can such a thing ever have been non-negotiable, or is it a case that, when Minister Olsen and Premier Brown were caught with their pants down on this, with the revelations that appeared in Alex Kennedy's article when she was the only press person at a select committee, they immediately started backtracking. It became obvious that neither of them knew exactly what was going to take place. There are a few other things that we would like to talk to John Olsen about, one being this question of the bids not being accepted after 5 p.m. On 12 December in the *Advertiser* the Premier was quoted as follows:

> All the due processes have been gone through to make sure that the delay was approved by the auditor and also that the other companies knew of this delay.

The Solicitor-General's report makes it absolutely clear that this was not the case, and we would like to speak to the Minister for Infrastructure about it. On 24 October 1995 John Olsen, in another place, in response to a Dorothy Dixer about probity, said:

> All three bidders confirmed their satisfaction with the probity process.

I do not know to whom they confirmed it, because it is quite clear that one of the bidders is not very happy. He continues:

> The process has now received recognition internationally as a model for such outsourcing contracts.

I bet that the Minister could bite his lip on that statement. This whole process now has been recognised as a monumental stuff-up by this Government. The international recognition that it has received is that this is not a place in which to do business, particularly if you are doing business with the State Government. Heaven forbid! You want to be careful about taking any action against the Government or one of its people because it might introduce an Act of Parliament to try to circumvent action which is under way in a court. On 23 November Dean Brown said:

> The Minister for Infrastructure has given accurate details to this House in both his answers to questions and ministerial statements.

Well, that is how much the Premier knows because, if we look at the Solicitor-General's report, we see it reveals that on 4 October United Water International was given four extensions of time totalling over four hours. Security for procedures were downgraded, causing concerns for the Acting Manager of Security; the Probity Auditor allowed two

bids to be copied and circulated to unauthorised people and left the building early before the United Water bid was received; the first two bids were circulated to unauthorised personnel; the security camera tape ran out and was not replaced; unsuccessful bidders were not informed of United Water's extension of time; the contract manager left the building for dinner and did not return until after the United Water bid had arrived 9.20; and the Probity Auditor had knocked off early at 6 p.m. Yet we have the Minister for Infrastructure on 24 October saying:

> The process has now received recognition internationally as a model for such outsourcing contracts, and that is to the credit of the people who have been involved.

We also have Brown lauding his Minister for Infrastructure about the accuracy of the details that he is giving to the House.

The Hon. A.J. Redford interjecting:

The Hon. T.G. CAMERON: I see that the Hon. Angus Redford is back: he has come back to join the Hon. Legh Davis in a few interjections from the back bench. Malcolm Kinnaird described to the Opposition the Government's handling of the receipt of the bids as the 'Loony Tunes'. The Auditor-General, in a newspaper article, made clear to the select committee in December that if this had been an RFT the whole process would need to have been scrapped and restarted.

The Hon. J.C. IRWIN: Excuse me, Mr Acting President. Evidence given to the select committee is part of what we have talked about before and so is clearly out of order.

The ACTING PRESIDENT: I thought that perhaps I heard wrongly that the Hon. Mr Cameron did refer to some remarks of the Auditor-General.

The Hon. T.G. Cameron: That had been reported in the papers.

The Hon. J.C. IRWIN: He used the words 'evidence to the select committee'.

The Hon. T.G. CAMERON: I said that comments made by the Auditor-General to the select committee had been reported in the press, and that is what I am referring to.

The ACTING PRESIDENT: Mr Cameron, you are out of order under Standing Orders. That still is an infraction of Standing Order 190. I remind you again that you must not touch directly or by solicited comments on any matter which has come before the select committee.

The Hon. T.G. CAMERON: The Minister for Infrastructure has so far refused to attend the select committee, saying that he will answer questions during Question Time. North West Water confirmed at the select committee last Friday that it had failed to appear at the committee on 2 December—

The Hon. L.H. DAVIS: On a point of order, Standing Order 190 has again just been flagrantly breached by the honourable member.

The ACTING PRESIDENT: I must be quite honest. I was talking to the Clerk at the time and I did not hear what was said. Again, Mr Cameron, I would ask that you ensure that you comply with the Standing Order.

The Hon. T.G. CAMERON: Thank you, Mr Acting President. It is a matter of fact that North West Water did not appear before the committee on 2 December, and this was despite the journey of Gerry Orbell from London to Adelaide. We can only speculate as to the real intention of Dr Orbell's visit to Adelaide. I understand that Dr Orbell is no longer employed by North West Water. I further understand that Dr Orbell sat in a lounge at Heathrow Airport waiting for confirmation that North West Water would be invited to appear at that meeting on 2 December and that he did not board a plane to come out to Adelaide until he received confirmation that North West Water had been requested to attend that meeting on 2 December.

The ACTING PRESIDENT: Before anyone takes another point of order, the honourable member is sailing very close to the edge in respect of Standing Order 190. I can only suggest that he be careful, because it really is detracting from the part he is playing in the committee. It is detracting from the honourable member's part in the committee if he constantly keeps infringing Standing Order 190.

The Hon. T.G. CAMERON: I was not aware that I was referring to anything that had transpired in the select committee. It would appear that the Hon. Legh Davis jumps to his feet every time I mention the word 'select committee'. All I was referring to was the fact—and again this is common knowledge—that North West Water had been invited to appear before the committee on 2 December; and we know for a fact is that Gerry Orbell flew from London to Adelaide ostensibly to attend that meeting. I put it to the Council that, despite suggestions to the contrary, Dr Orbell's visit to Adelaide was motivated by his desire to attend the select committee meeting.

The ACTING PRESIDENT: I ask the honourable member to resume his seat. The mere fact that it was common knowledge does not mean that the honourable member does not have to comply with Standing Order 190. How can I make the honourable member see that? The honourable member must not touch on or imply anything in respect of matters pertaining to the select committee. The mere fact that it is common knowledge does not excuse the honourable member from sticking within the parameters of Standing Order 190. I must ask the honourable member to stand by the substance of his comments and measure them against that Standing Order. Perhaps I will read it to the honourable member again, so that it becomes a little more clear. It states that the honourable member must not refer to or imply anything that is of pertinency to the select committee unless and until the report of that committee has come back to this Council and been dealt with. That is not so at this time.

The Hon. T.G. CAMERON: We do know that, when Dr Gerry Orbell arrived here in Australia, he had an early morning meeting with the Minister for Infrastructure at 8 o'clock.

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

The Hon. T.G. CAMERON: It was in the paper; that is why. And he was seen going into his office; that is why.

The Hon. L.H. Davis: You were told that last Friday.

The Hon. T.G. CAMERON: No, we knew that well before that. The Hon. Legh Davis is again trying to suggest that this information only came out at a select committee meeting. That is incorrect. Gerry Orbell had a meeting with John Olsen on 2 December, and I put to the Council that subsequent to that meeting North West Water decided that it would not attend the meeting. Again, that is something that we would like to discuss with the Minister for Infrastructure. It would appear that the Minister is too afraid to attend, and I am a little puzzled why.

I will conclude shortly, because I have spent enough time on this. There are just a couple of issues on which we would like to examine the Minister. One is this question about exports—goods and services. On 22 November the Premier said that the selling of goods from Adelaide to interstate for use within Australia was not acceptable under the definition of an export. It was later revealed that the level of exports to

which United Water International was committed included interstate exports. Over a 10 year period this company—United Water—will be required to buy $628 million worth of product on present day values. That is what Brown said on 8 February.

The ACTING PRESIDENT: Order! I remind the honourable member that proper parliamentary procedure requires that if he is going to refer to members he must attempt to give them their proper parliamentary nomenclature and title.

The Hon. T.G. CAMERON: Thank you, Mr Acting President. I will repeat that. Premier Brown said on 8 February that over a 10 year period this company—United Water—will be required to buy $628 million worth of product on present day values. The Solicitor-General's report reveals that the additional $255 million in the United Water International bid is predominantly made up of repatriated dividends.

On 18 October Premier Brown said that the two parent companies have no rights to tender against United Water for the vast majority of the Asian area, including Indonesia, Malaysia, certain key provinces of China, India, Singapore, Vietnam, the Philippines and Cambodia. The important thing is it that, as far as these two major international global companies are concerned, any bid into those areas must be through United Water based here in Adelaide. That is what Premier Brown was saying on 18 October yet, at a meeting with the Opposition on 1 February, Malcolm Kinnaird denied that these exclusive rights existed and denied that United Water would be the bid vehicle only if the parent companies agreed.

I could go on and on with a whole lot of other areas on which we would like to examine the Minister. One would be the question of subcontracting. Again, we have conflicting statements on the question of polling. On 16 October 1995, a spokesman for the Infrastructure Minister, Mr Olsen, denied that there had been any taxpayer funded polls on the issue. It has subsequently been shown that that statement was at very best a glaring untruth.

We would also like to discuss with the Minister the question of a disclosure of fee-for-service to EWS; that is, we would like to examine the Minister's understanding and knowledge of the two-tier structure and this question of the contractual arrangements that exist between UWI and EWS.

In conclusion, I am pleased to say that the Opposition is supported by the Democrats, and it would appear that we are also being supported by the Hon. Legh Davis in our request that Minister Olsen appear before the committee. Quite clearly, this contract has been the subject of such misinformation and confusing statements by both the Premier and the Minister for Infrastructure—statements which contradict and conflict directly with statements made by representatives of the water companies—that the Opposition would like to get to the truth on this matter. We would like to know who is lying; is it the Government or is it the water companies?

The Hon. R.I. LUCAS (Minister for Education and Children's Services): I rise to speak briefly to this motion. Certainly, whether or not the Hon. Mr Olsen would appear before this select committee has been an issue that I have discussed with the Minister. The Minister has indicated quite clearly to me that he has taken advice, and I think he has also indicated publicly in the Parliament and in the public arena that he will not be appearing before this select committee. He has indicated in the Parliament and publicly that he is more than happy to respond in the Parliament and publicly to questions in relation to this issue and will continue to be publicly accountable in that and other ways as well. I must also say that when this select committee reports and when I am able to speak more fully I will say that I have been disturbed about the behaviour of at least one member of this select committee. I will say no more than that.

The ACTING PRESIDENT: You should not even be saying that.

The Hon. R.I. LUCAS: Exactly, Mr Acting President. When this select committee reports and the Standing Orders permit me to speak more fully, I will certainly say something on that occasion about that issue, and indeed I know that many other members in both Houses will be indicating some significant concerns. I am mindful of your very wise counsel earlier, Sir, in relation to Standing Orders, in particular Standing Order 190, and I will certainly not be treading on that hallowed turf and the ruling that you have wisely given.

The Hon. Mr Davis has moved this procedural motion as the Chair of the select committee. The motion itself is a statement of the obvious. It does not request or direct but states the obvious: that the Minister is permitted to attend. That is what it says—no more and no less. Anyone who attributes any more to it than that is not reading the words of the motion. It does not say 'request', 'direct' or 'wish': it provides that he be permitted to attend. It is a statement of the glaringly obvious. The Minister has indicated that he will not be attending, and I know that will continue to be his position.

As a member of the Government, and bearing in mind what I said earlier and what I will say when this select committee reports about the behaviour of one member of the committee, I wholeheartedly support the Minister for Infrastructure in his decision.

The Hon. L.H. DAVIS: I rise to close the debate. I just reiterate that I have moved this motion as the Chairman of the select committee. It has been a tradition in this Chamber, at least until today, that the Standing Orders relating to the conduct of select committees be observed. As I said, I have been here for 16 years and, until today, I have always had the very firm view that members of all three Parties represented in this Chamber have respected the Standing Orders with regard to the evidence taken by select committees which are still in the process of meeting and which have yet to make a final decision. The Hon. Terry Cameron may not have been here for a long time and—

The Hon. T.G. Cameron interjecting:

The ACTING PRESIDENT: Order!

The Hon. L.H. DAVIS: —perhaps one may have thought that was an excuse for the way he has conducted himself today. I want to put on record that I am disappointed that there have been continual referrals to the select committee evidence—

The ACTING PRESIDENT: Order! Can I draw your attention to the substance of the motion, and ask you to address the content of that motion and not stray from it.

The Hon. L.H. DAVIS: Yes, I certainly will, Mr Acting President. As I said at the beginning, I have been asked by the committee to move this motion on their behalf. I have done that, as has been done before by other chairmen of select committees. This is not without precedent. Standing Order 443 makes quite clear that this is the vehicle that has to be used procedurally to ask a Minister, or a member of the House of Assembly, if they would appear before a Committee of this Chamber.

Motion carried.

LEGAL PRACTITIONERS (MISCELLANEOUS) AMENDMENT BILL

In Committee.

Clauses 1 and 2 passed.

Clause 3—'Interpretation.'

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

Page 1, after line 16—Insert:

(aa) by inserting after the definition of 'banking account' the following definition:

'Board' means the Legal Practitioners Complaints Board continued in existence under this Act;

(ab) by striking out the definition of 'the Committee'.

I said yesterday that I appreciated that the Leader of the Opposition has indicated her support generally for the amendments and I have made available to both her office and to that of the Hon. Michael Elliott information about the changes. For that reason, I may abbreviate my remarks.

This amendment relates to the naming of the appropriate complaints body presently known as the Legal Practitioners Complaints Committee. The Law Society was concerned that, over the years that we have had the Legal Practitioners Complaints Committee, since 1981, I think, it has always created a perception that this was a committee of the Law Society when in fact it was an independent statutory committee. The Law Society was anxious to have that name change so at least it could be modified. I was happy to accede to that. The Legal Practitioners Complaints Committee similarly was happy to change the name. We did consider a number of possibilities, and one of those was the Legal Practitioners Complaints Board. In the circumstances, that seemed to be the most acceptable description, rather than something like the Legal Practitioners Complaints Authority or some other description. This amendment is the principal amendment which identifies the board as the Legal Practitioners Complaints Board.

Amendment carried.

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

Page 1, after line 20—Insert:

(ba) by striking out the definition of 'the Secretary'.

This is a drafting issue. The Executive Officer of the present Legal Practitioners Complaints Committee is, I think, described as Secretary, and we are proposing to change the description of that office. This amendment is consequential upon that.

Amendment carried; clause as amended passed.

Clause 4 passed.

New clause 4A—'Amendment of s.16—Issue of practising certificate.'

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

Page 2, after line 4—Insert new clause as follows:

4A. Section 16 of the principal Act is amended—

(a) by striking out subparagraph (ii) of subsection (2)(a) and substituting the following subparagraph:

(ii) the director of the company (or, if there is more than one director, each of them) must be a natural person who is a legal practitioner holding a current practising certificate (but if the company only has two directors they may consist of a legal practitioner holding a current practising certificate and a person who is not a legal practitioner holding a current practising certificate but is a prescribed relative of that practitioner);

(b) by inserting in the definition of 'prescribed relative' in subsection (6) 'brother, sister,' after 'parent,'.

The amendment deals with two issues. It formally recognises that under the Corporations Law a company may now be constituted by one director. The Legal Practitioners Act allows the corporation of a legal practice provided there must be at least two directors and one of those must be a legal practitioner and the other at least a prescribed relative. The amendment recognises that there need only be one director, in which case that must be a natural person as a legal practitioner holding a current practising certificate, but if the company has two directors, and that may be the choice of the legal practitioner, the other director must be a prescribed relative. The complaint which was made by one practitioner was that, if the practitioner was not married and had no surviving parents and no children, why could that practitioner not have a brother or sister? That seemed perfectly reasonable, and so that is now allowed by the amendment.

New clause inserted.

Clauses 5 to 7 passed.

Clause 8—'Confidentiality.'

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

Page 2, line 25—Leave out 'paragraph' and substitute 'paragraphs'.

Clause 8 relates to section 37 dealing with issues of confidentiality. This amendment is consequential, in a sense, upon the addition of a new paragraph (b) under a subsequent amendment because we want to insert reference to the board, which is the present Legal Practitioners Complaints Committee. This present amendment relates to an issue of drafting.

Amendment carried.

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

Page 2, line 29—Leave out 'Committee' and substitute 'Board'.

This amendment is consequential upon an earlier amendment.

Amendment carried.

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

Page 2, after line 29—Insert:

(b) to the Board; or

This deals with the issue of confidentiality and seeks to include within the compass of the present section 37 the Legal Practitioners Complaints Board.

Amendment carried; clause as amended passed.

Clause 9 passed.

Clause 10—'Costs.'

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

Page 2—

Line 34—After 'subsection (4)' insert 'and substituting the following subsection:'.

After line 34—Insert:

(4) The Board may institute proceedings for the taxation of legal costs under this section on behalf of a person who is liable to pay, or has paid, the legal costs.

The Bill removes the provision in section 42 which allows the Commissioner of Consumer Affairs to institute proceedings for the taxation of legal costs on behalf of any person who is liable for the legal costs. The board is now to be given this power, which will streamline the process of referring matters for taxation. The amendments ensure that that is the case.

Amendments carried; clause as amended passed.

Clauses 11 and 12 passed.

Clause 13—'Guarantee fund.'

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

Page 3, line 22—Leave out 'Committee' and substitute 'Board'.

It is consequential.

Amendment carried; clause as amended passed.

Clause 14 passed.

Clause 15—'Establishment of the Legal Practitioners Complaints Committee.'

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

Page 3, lines 26 to 36—Leave out this clause and substitute the following:

Amendment of s.68—Establishment of the Legal Practitioners Complaints Board

15. Section 68 of the principal Act is amended by striking out subsection (1) and substituting the following subsections:

(1) The Legal Practitioners Complaints Committee continues in existence as the Legal Practitioners Complaints Board.

(1a) The Board—

(a) is a body corporate; and

(b) has perpetual succession and a common seal; and

(c) is capable of suing and being sued.

(1b) Where an apparently genuine document purports to bear the common seal of the Board, it will be presumed in any legal proceedings, in the absence of proof to the contrary, that the common seal of the Board was duly affixed to that document.

(1c) The Board has the powers of a natural person.

This amendment reconstitutes the Legal Practitioners Complaints Board.

Amendment carried; new clause inserted.

Clause 16—'Director and staff of committee.'

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

Page 4—

Line 4—Leave out 'Committee' and substitute 'Board'.

Line 6—Leave out 'Committee' and substitute 'Board'.

Line 7—Leave out 'Committee' and substitute 'Board'.

The amendments are consequential.

Amendments carried; clause as amended passed.

Clause 17—'Confidentiality.'

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

Page 4, line 14—Leave out 'Committee' and substitute 'Board'.

It is consequential.

Amendment carried; clause as amended passed.

Clause 18—'Functions of Committee.'

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

Page 4—

Line 19—Leave out 'Committee's' and substitute 'Board's'.

Line 22—Leave out 'Committee' and substitute 'Board'.

Line 23—Leave out 'Committee' and substitute 'Board'.

The amendments are consequential.

Amendments carried; clause as amended passed.

Clause 19 passed.

Clause 20—'Investigations by committee.'

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

Page 4, line 31—Leave out 'Committee' and substitute 'Board'.

It is consequential.

Amendment carried.

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

Page 4, line 32—Insert 'who the Board has reasonable cause to suspect has been guilty of unprofessional conduct' after 'practitioner'.

This is not consequential. It was requested by the Law Society to identify more specifically the power which the board may have in relation to investigations. It builds into it a qualification of the power to investigate a practitioner whom the board has reasonable cause to suspect has been guilty of unprofessional conduct. It is quite an appropriate modification.

Amendment carried.

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

Page 4—

Line 33—Leave out 'Committee' and substitute 'Board'.

Line 35—Leave out 'Committee' and substitute 'Board'.

Page 5—

Line 3—Leave out 'Committee' and substitute 'Board'.

Line 5—Leave out 'Committee' and substitute 'Board'.

The amendments are consequential.

Amendments carried.

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

Page 5, line 5—Insert 'or if the Board is satisfied that the subject matter of the complaint has been resolved prior to commencement or completion of an investigation' after 'vexatious'.

This amendment was requested by the Complaints Committee to deal with those matters which are of a minor nature.

Amendment carried.

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

Page 5, lines 6 to 11—Leave out all words in these lines and substitute the following:

(b) by striking out subsections (3) and (4) and substituting the following subsections:

(3) For the purposes of an investigation the Board, or a person authorised by the Board to exercise the powers conferred by this subsection, may—

(a) by notice in writing, require specified documents, or documents of a specified class, in the custody or control of a prescribed peron to be produced at a time and place specified in the notice; and

(b) at any time during ordinary business hours, inspect any documents in the custody or control of a prescribed person; and

(c) seize or make notes or copies of any documents produced in accordance with this subsection, or take extracts from them.

(4) A person who—

(a) wilfully delays or obstructs the Board or an authorised person in the exercise of powers conferred by subsection (3); or

(b) being a prescribed person, refuses without reasonable excuse to produce a document when required to do so in accordance with subsection (3),

is guilty of an offence.

Maximum penalty: $10 000 or imprisonment for one year.

(4a) The Board may, by notice in writing, require a legal practitioner whose conduct is under investigation to make a detailed report to the Board, within the time specified in the notice, in relation to any matters relevant to the investigation.

(4b) A legal practitioner must comply with a requirement under subsection (4a).

Maximum penalty: $10 000 or imprisonment for one year.

It was a request from the board that it have further powers to require the production of documents to the board's premises and to seize documents, if necessary, and for the board to have power to enforce the rights, and it does create an offence for failure to comply.

Amendment carried; clause as amended passed.

Clause 21—'Report on investigation.'

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

Page 5—

Line 22—Leave out 'Committee' and substitute 'Board'.

After line 23—Insert new paragraph as follows:

(ba) by striking out subsection (3);

Line 25—Leave out 'Committee' and substitute 'Board'.

Amendments carried; clause as amended passed.

Clause 22—'Investigation of allegation of overcharging.'

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

Page 5, lines 28 to 30—Leave out this clause and substitute the following:

Amendment of s.77A—Investigation of allegation of overcharging

22. Section 77A of the principal Act is amended by striking out subsection (3) and substituting the following subsection:

(3) For the purposes of an investigation the Board may, by notice in writing—

(a) require the legal practitioner to make a detailed report to the Board, within the time specified in the notice, on the work carried out for the complainant;
(b) require the legal practitioner to produce to the Board, within the time specified in the notice, documents relating to the work.

This amendment is to more effectively deal with the powers of the board upon an investigation and the requirements that may be imposed upon a legal practitioner.

Amendment carried; new clause inserted.

Clauses 23 and 24 passed.

Clause 25—'Inquiries.'

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

Page 6, lines 22 and 23—Leave out 'auditing of the legal practitioner's files and records by an approved auditor' and substitute 'examination of the legal practitioner's files and records by a person approved by the tribunal'.

This is a drafting matter.

Amendment carried; clause as amended passed.

Clause 26 passed.

New clause 26A—'Proceedings to be generally in public.'

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

Page 7, after line 10—Insert new clause as follows:
Section 84A of the principal Act is amended—
(a) by striking out subsection (2) and substituting the following subsection:
(2) The Tribunal may order that an inquiry or part of an inquiry be conducted in private if satisfied that it is necessary to do so in the interests of justice or in order to protect the privacy of clients of the legal practitioner or former legal practitioner whose conduct is the subject of the inquiry.;
(b) by inserting in subsection (3) 'and the need to protect the privacy of clients' after 'justice'.

This is a modification of the present section, which requires proceedings to be generally in public, particularly to deal with issues relating to the privacy of clients' affairs. It seems wrong that they should have all their affairs displayed in public if the tribunal believes that it is not in their interests for that to occur, although the behaviour of the practitioner and the proceedings may generally be public. This is a measure that helps to modify the strict application of the rule about proceedings in public.

The Hon. M.J. ELLIOTT: With respect to the privacy of clients, when an inquiry is being carried out by a tribunal, are we talking about clients who have lodged some sort of complaint with the inquiry, or does it deal with clients more generally?

The Hon. K.T. GRIFFIN: It deals with the issue of a hearing before the tribunal where it may be that one matter involving a client of a legal practitioner might be the subject of the disciplinary action, or it might be a series of clients of that practitioner. It deals with the affairs of the clients of that practitioner. The former presiding member of the tribunal has drawn my attention to the fact that there may be matters of a personal nature to the client who may have complained or who may be one of the clients of the practitioner who is up on disciplinary proceedings, and in those circumstances there is no power at the moment to say that they should be heard in confidence.

The Hon. M.J. ELLIOTT: The point of the question is not whether the tribunal should have this power but relates to the circumstances under which it might be applied. It is quite clear that the intention has been that the proceedings should generally be in public. I do not want to construct an excuse that might be used in an almost artificial sense. Surely it should apply when the clients require privacy as distinct from somebody else deciding for them that perhaps their privacy needs protection.

The Hon. K.T. GRIFFIN: That is usually the way in which it would be applied. The clients may not have any problems about all this. It might be a messy divorce case where there is a complaint against the practitioner and there are disciplinary proceedings. The complainant client might not have any problems about it being out in the open, even though it is his personal affairs that might provide a greater level of attraction than the affairs of the practitioner. On the other hand, that client might think it is a bit rough, that it is the solicitor who is subject to the disciplinary proceedings but, because all the client's affairs and dirty linen will be out in public, he is the one who will be prejudiced. It is a matter for discussion within the tribunal. This merely gives the tribunal the power to do it.

New clause inserted.

The CHAIRMAN: Clause 27, being a money clause, is in erased type. Standing Order 298 provides that no questions shall be put to the Committee upon any such clause. The message transmitting the Bill to the House of Assembly is required to indicate that this clause is deemed necessary to the Bill.

Clause 28—'Consequential amendments.'

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

Page 7, lines 39 to 40—Leave out ', or on the ground of legal professional privilege'.

Page 8, lines 12 to 15—Leave out all words in these lines.

It has been drawn to my attention that some issues relating to legal professional privilege have been included in proposed section 95C that may create some difficulties. The Law Society raised these matters, as have others. There is a need to make some provision about ensuring that a practitioner does not hide behind the issue of legal professional privilege, but the issue is whether this provides protection for the practitioner or enables the practitioner to do that. I have decided that, in order not to hold up the consideration of the Bill the first time around, I will move two amendments, which remove the reference to legal professional privilege in new section 95C, but I will undertake to have the matter further examined, and it is most likely that there will be some modification by way of amendment moved in the other place and will come back to this Chamber as a discrete issue to be resolved in a few weeks.

Amendments carried; clause as amended passed.

New clause 28A—'Consequential amendments.'

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

Page 8, after line 15—Insert new clause as follows:
The principal Act is further amended in the manner set out in schedule 1.

This is consequential.

New clause inserted.

Clause 29—'Revision of penalties.'

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

Page 8, line 17—Leave out 'the schedule' and substitute 'schedule 2'.

This is consequential.

Amendment carried; clause as amended passed.

New schedule 1.

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

Page 8, after line 17—Insert new schedule as follows:

SCHEDULE 1

Further Amendments of Principal Act

Provision Amended	How Amended
Section 57, subsections	Strike out 'Committee' (whenever

(3)(d), (4)(e) and (ea) and (6)	occurring) and substitute in each case, 'Board'.
Heading to Division 1 of Part 6	Strike out 'COMMITTEE' and substitute 'BOARD'.
Section 68, subsections (2), (3), (5), (6) (7)(a) and (8)	Strike out 'Committee' (whenever occurring) and substitute in each case, 'Board'.
Section 69, subsections (1), (2), (3) and (4)	Strike out 'Committee' (whenever occurring) and substitute in each case, 'Board'.
Section 70, subsections (1), (2), (3), (4), (5) and (6)	Strike out 'Committee' (whenever occurring) and substitute in each case, 'Board'.
Section 71, subsections (1) and (2)	Strike out 'Committee' (whenever occurring) and substitute in each case, 'Board'.
Section 73, subsection (1)	Strike out 'Committee' (whenever occurring) and substitute in each case, 'Board'.
Heading to Division 2 of Part 6	Strike out 'COMMITTEE' and substitute 'BOARD'.
Section 74, subsection (1)	Strike out 'Committee' (whenever occurring) and substitute in each case, 'Board'.
Section 75, subsections (1) and (3) (6)	Strike out 'Committee' (whenever occurring) and substitute in each case, 'Board'.
Section 76, subsection (2)	Strike out 'Committee' and substitute 'Board'.
Section 77, subsections (1), (3), (4) and (5) (6)	Strike out 'Committee' (whenever occurring) and substitute in each case, 'Board'.
Section 77A, subsections (1), (2) and (5)	Strike out 'Committee' (whenever occurring) and substitute in each case, 'Board'.
Section 82, subsection (2)(b) and (7)	Strike out 'Committee' (whenever occurring) and substitute in each case, 'Board'.
Section 90, subsections (3) and (4)	Strike out 'Committee' (whenever occurring) and substitute in each case, 'Board'.
Section 90A, subsections (1) and (3)	Strike out 'Committee' (whenever occurring) and substitute in each case, 'Board'.

This is consequential.

New schedule 1 inserted.

Schedule 2.

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

Page 10—Leave out the amendment relating to section 76(4).

Leave out from the amendment relating to section 77A(4) '$5 000' and substitute '$10 000'.

They are consequential drafting issues.

Amendments carried; schedule as amended passed.

Title passed.

Bill read a third time and passed.

EDUCATION SERVICES

The Hon. CAROLYN PICKLES (Leader of the Opposition): I move:

1. That a select committee of the Legislative Council be established to consider and report on the following matters of importance to primary and secondary education in South Australia:

(a) the fall in the retention rate of year 12 to 71.4 per cent, including the reasons for fewer students completing year 12, for example—the introduction of SACE, curriculum choice and economic factors.

(b) the effect of the reduction of 250 full-time equivalent school service officers on the operation of schools and the delivery of programs.

(c) the practice of State schools charging fees including—

(i) the level of school fees;

(ii) the purposes for which fees are charged;

(iii) inequities between schools in the level of fees;

(iv) whether fees limit curriculum choice for some students;

(v) the effect of new regulations empowering schools to charge fees;

(vi) the availability and level of school card; and

(d) any other related matter.

2. That Standing Order 389 be suspended as to enable the Chairperson of the committee to have a deliberative vote only.

3. That this Council permits the select committee to authorise the disclosure or publication, as it thinks fit, of any evidence or documents presented to the committee prior to such evidence being presented to the Council.

4. That Standing Order 396 be suspended as to enable strangers to be admitted when the select committee is examining witnesses unless the committee otherwise resolves, but they shall be excluded when the committee is deliberating.

Since coming to office two years ago, the Brown Government has systematically reduced resources for education in South Australia. In 1994, the first major education policy taken by the Government was to cut the education budget by $40 million over three years. This resulted in a cut of 422 teachers and 37 support staff. Class sizes in both primary and secondary schools were increased. In 1995, a further 100 specialist teachers and 250 school service officers were cut, eroding even further the ability of schools to maintain programs and, hence, standards have fallen.

Where South Australia could once boast that we were national leaders in the development of curriculum and the delivery of education, this is no longer the case, and it casts a very serious shadow over education in South Australia. The Brown Government has adopted a reduction of education standards as its goal and broken key promises made to South Australians that a Liberal Government would increase spending on education.

After years as shadow Minister, and all his criticisms of the previous Government, it is ironic the Minister is now doing the Treasurer's bidding and concentrating on how the Government can cut education. There is no commitment to excellence. How galling it must be for the Minister to know that he will only be remembered—if at all—as the Minister who cut resources. The decisions by the Brown Government on education challenge a notion of this being a clever country. One cannot help feeling that the Minister believes that the politics of education can be managed in 1996 in the same way as the Liberals did in the 1950s.

The plan revealed so far has been to cut expenditure in the Government's first two years of Government and then make a sham peace offering to teachers in return for no more strikes. One can accurately predict that in the fourth year the Government will pork barrel the electorate with promises of increased spending. Unfortunately, the whole community is a victim of this cynical cycle and the Liberal backbench will learn at the next State election that the tactics employed by Playford simply will not work in 1997. Education programs and teachers cannot be wound up and down every four years to suit the electoral imperatives of the Liberal Party. Teachers, children, school councils and parents are sick of having to fight the Government for resources to do their jobs.

Educationalists throughout Australia are watching the system once regarded as a national leader being reduced to the national average—or below the national average in some cases. This places us behind the leading States. Lower standards have very serious consequences for the future of the State and they will not be embraced by the community. The Opposition believes that a number of developments and decisions made by the Government have such serious consequences that they warrant examination by a select

committee of this Chamber. In particular, there are three important matters that warrant specific reference to a select committee and extensive public consultation and debate. These matters are: the dramatic fall during the 1994-95 in retention rates to year 12; the cut of 287 school support staff; and the introduction of compulsory school fees.

First, I will deal with the perplexing issue of retention rates. Last May, I drew to the attention of members the important issue of falling retention rates for secondary school students. The retention rate for students completing year 12 in South Australia has fallen quite dramatically over the past two years. In 1992, South Australia led all States, excluding the ACT, with a rate of 92 per cent. This compared with a national average at that time of 77 per cent. In 1993, the rate was 86 per cent; in 1994 the rate fell to 81 per cent; in 1995 the rate collapsed to 71 per cent.

While the Minister did not share my concern last May that about a quarter of our children were failing to complete secondary school, he did say that his department was looking at this issue. That is the last time we heard of this until such time as I asked him yet another question on the issue. The Minister ruled out any formal research to establish what was happening. Consistent with his policy of accepting that the Australian average is good enough for South Australia, the Minister pointed out that we remained above the other States. This is no longer the case.

In 1995, the retention rate of 71.4 per cent is lower than Victoria, Queensland and the ACT, and is now lower than the Australian average. Last year, the Minister also suggested retention rates had fallen because of increased job opportunities. However, the youth employment figures do not support his claim. In fact, labour force figures show that, in the 15 to 19 year age group, we had 43 200 persons employed at December 1993; 44 400 employed at December 1994; and it dropped to 43 800 in December 1995.

The number of children attending schools fell by 4 000 in 1995 while the State's population marginally increased. This is another very clear signal that we need to find out why nearly 30 per cent of our children are leaving school before completing year 12. Some believe that the introduction of SACE with its rigorous year 11 workload has been influential in children deciding to leave the secondary education system before completion. If this is the case, then it needs to be examined. While the introduction of SACE has been carefully monitored by SSABSA, I believe that it would be entirely appropriate and timely for this Chamber to review the implications of SACE for students and, in particular, the effect on retention rates and pathways to further education either through TAFE or work-based education.

In answer to a question I recently asked on this very topic, the Minister foreshadowed a review of SACE by SSABSA this year. But SACE should not be looked at in isolation in this way: we need a select committee to examine the difficulties students have apparently had with SACE, along with all the other issues relevant to the falling away of our schools' retention rate figures. Whatever the reasons for the fall in retention rates, the consequences for our children in South Australia have a potential to be most serious. It is essential for their future as equal partners in our ever increasing complex society that they complete the very best secondary education the community can provide. The alternative is a cost to the individual and the whole community from lost employment opportunities and personal development.

When enrolments fell by 4 000 last year the Minister announced that up to 200 more teachers could be offered separation packages. This clearly indicated the priority given to falling enrolments given by the Minister—just another opportunity to cut teachers and reduce the education budget. There was no focus at all on the meaning for education outcomes.

I now turn to the issue of school service officers. The decision by the Brown Government to cut the equivalent of 287 full-time school service officers has been universally condemned by the education community. School councils, principals and teachers, and parents have written to the Minister to point out the effect that this decision will have on programs and services offered at schools, and seek to have this decision reversed. Members of the Minister's own Party have lobbied him and publicly disagreed with the decision. The Minister remains unmoved. Not one voice has been heard in support of the decision. The latest announcement that the Government will engage trainees to undertake work previously done by school service officers is a cynical stunt to deflect the community's outrage over the axing of 250 school service officers.

A circular to schools states that trainees may be employed as school service officers to undertake clerical work, classroom support, library work, special programs such as behaviour modification, and laboratory assistance. This stunt will not provide schools with trained staff to carry out essential work and is a brutal admission that the SSO jobs should not have been cut. The Minister's trainee ploy is also a blatant exercise in transferring the cost of providing a valuable service from the State to the Federal Government, and this has become a favourite pastime of Liberal State Governments around Australia.

The need to maintain levels of experienced and capable SSOs is confirmed by reports now coming from schools about the difficulties that they are now facing. Some schools, in fact, have levied new fees in 1996 to allow the continued employment of school service officers and this is a direct transfer of cost from the Government to parents. There is a mountain of evidence to support a select committee inquiry into adequate levels of support staff for schools and the effects of cuts made by the Government. I know that school councils around the State will strongly support this move and will be most anxious to give evidence and participate in the debate.

Finally, I turn to the matter of compulsory school fees. The decision by the Minister to regulate for compulsory school fees for materials and services has not resolved any of the problems that face both schools and parents regarding fees. Schools would need to continue to levy voluntary fees to meet their operating costs. There will now be two tiers of fees—one voluntary and one compulsory. This is a radical approach to public education. Nowhere else in Australia has public education been eroded to the point where school fees are compulsory. The element of compulsion adds a totally different perspective to school fees. Quite simply, they become a tax—a tax that is enforceable by chasing parents through the court system.

At the end of that court system, if a case were followed through to its logical conclusion, a parent could be imprisoned for failure to pay school fees if he or she were pursued through the court by the school council, the Minister or whoever is going to be the executioner and who must discharge the responsibility of forcibly extracting fees from parents.

Possibly the only State in Australia with a more vexatious school fees issue than that of South Australia is the State of

Victoria. Victoria is a State with a Premier whom Dean Brown aspires to emulate. But even in Victoria, where primary school students face levies of between $40 and $75 and secondary students $200 to $300, according to *The Age* newspaper; even in Victoria, where there are humiliating limitations on student access to school facilities; and even in Victoria, where there were moves within the Liberal Party last year to make school fees compulsory, that proposal for compulsory school fees was defeated.

Thankfully, the less radical faction in the Liberal Party has the numbers in the Government at the moment and there are enough nervous backbenchers perhaps to overturn Mr Lucas's proposal to make school fees compulsory in this State. However, the issue of whether or not school fees are compulsory is only part of the problem facing schools and parents at present. The level of school fees certainly needs to be examined. My information from the various States and Territories of Australia suggests that South Australian school fees are amongst the highest in the country. In the face of Government cutbacks many schools seem to think that they have no choice but to increase school fees, sometimes drastically.

One of the proposals that could be examined by a select committee is the capping of school fees, as in New South Wales. What they have done there is essentially to stop schools from increasing schools fees above CPI increases each year. Even this approach, however, would not remove the growing inequities between schools in different parts of Adelaide and in rural areas compared with city areas.

Budget cuts by the Brown Government are forcing schools to increase charges, and parents are being burdened with ever-increasing fees. They say that they simply cannot afford them. In the past, parents have been asked to pay school fees to contribute to the extras. Now schools have been forced to become reliant on parent funding to meet normal operational costs and, for the first time this year, some schools are imposing a levy to pay the salaries of school services officers cut by the Minister, as I have already outlined.

Fees have increased as a component of schools' operating budgets while Government funding through annual operating grants has fallen as a percentage of school budgets. Schools are receiving as little as 25 per cent of their operating budgets from the annual grants. The rest comes from parents. In some schools, I have been informed, as much as 60 per cent of their annual operating grants is being paid for by parents. Clearly, there needs to be an inquiry into the adequacy of existing support grants for school operating budgets and whether the fees are subsidising costs that should be met by the Government. An average fee of, say, $150 for each student across the primary and secondary system totals $30 million a year, yet the Minister does not know what fees are being charged by schools under his control and for what purpose these funds are expended. It is time that Parliament and parents had a full understanding of this part of education funding.

One of our leading high schools is now forced to charge a basic fee of $330. On top of that, fees for stationery and other services add up to $314, depending on curriculum choice. This year the school has added a $15 levy to cover SSO salaries, a direct cost transfer from the Government to parents. Obviously, the Minister's regulation to give primary schools the authority to charge for stationery and services up to $150 and secondary schools up to $200 will not address the problems being faced at this school. Against this background one can only wonder how long it will be before the Minister increases the level of the compulsory fees and makes further cuts to Government funding.

If compulsory fees go ahead a new mechanism will be in place to allow the Minister conveniently and stealthily to reduce the expenditure figures in the education budget in the knowledge that deficiencies in individual school budgets will be filled by the extraction of funds from parents. At the same time as introducing compulsory fees for materials and services, the Minister has reduced the value and availability of schoolcard. Schoolcard for primary students has been reduced from $113 to $103. Compare this with the new compulsory primary fee of $150. Immediately, a gap of $47 is payable by parents who are eligible for schoolcard, and one can confidently predict that those primary schools that currently do not charge the full $150 will soon have to raise their fees to that level.

Similarly, the compulsory fee of $200 allowed to be charged by high schools is supplemented by schoolcard reduced to $160. This leaves a gap of $40, and again it can be predicted that all schools will quickly move to ensure that their fees are at the upper limit. On top of these fees will be voluntary charges and levies that presumably will not be enforceable in court, and it will be interesting if parents take the option of paying the compulsory fee and refuse to pay the voluntary component.

There is also the question whether compulsory fees charged for materials and services can be used by schools by other purposes, such as the employment of school service officers. In the past there has been no legal basis for Government schools to charge fees or to compel parents to pay them. In cases where fees were not paid, for one reason or another, schools were encouraged to negotiate with parents but were not permitted to use debt collectors or take court action for the recovery of fees. Importantly, children were not to be excluded from any activities because fees had not been paid. Of course, that has all changed under a Liberal Government. There are some nightmare stories coming out of Victoria at the moment: for example, a student who was refused a library card because her parents had not paid school fees. That student was also refused access to computers outside regular computer class times.

These sorts of actions by schools begin to infringe the basic right to a free education enjoyed by students around the country, and salt is rubbed into the wound by the very fact of stigmatising those students whose parents cannot or will not pay school fees by excluding the students from everyday school activities. The new system will rely on debt collectors and court action to recover unpaid fees. This will change the good relationship between schools and parents and introduce what may well be a major area for conflict.

In 1992 this is what the Solicitor-General's senior legal adviser on education matters said about school fees, and I quote from part of his advice to the former Minister as follows:

> The short answer to this question is that school councils do not currently have power to impose fees at all. They are clearly not empowered to do so by regulations. The role of school councils is not currently to provide educational services and, accordingly, fees could not be characterised as a fee for service so as to enable councils to collect such fees. The department itself does not have such power. If it were thought desirable to charge fees, the apparent inconsistency with the compulsory nature of education would have to be examined.

This advice raises important questions about the role of school councils and their responsibility for the delivery of services. It also raises the question about the apparent

inconsistency between the Minister's regulation making the payment of fees compulsory and the provisions of the Education Act concerning the compulsory nature of education and the Minister's responsibilities to provide education.

Given the lack of detail on every other aspect of compulsory fees, one wonders if the Minister has taken advice on the mechanics of how school councils will take action in the court system against parents or guardians for the payment of fees and what the costs of this action might be.

Matters will be heard in the Magistrates Court, and school councils would normally require to seek assistance from a solicitor, and my advice is that with court fees this could cost about $250 to $300. The question of the capacity of the courts and the cost to the community of having several thousand cases dealt with each year needs to be considered. I would like the Minister to indicate whether he has advice from the Attorney on these issues. There are many aspects of this proposal that have not been properly considered by the Minister. First, there has been no assessment of fees now being charged and the division of responsibility between the Government and parents to meet these costs. Secondly, there are complex legal issues, including the role and powers of the Minister and school councils and their roles in the delivery of educational services, and whether schools can spend funds charged for materials on other items.

Thirdly, there is the question of legislating a minimum fee that creates a compulsory gap between schoolcard benefits and the minimum fees, and the ability of schools to recover fees not related to materials and services.

Finally, there is concern about the ongoing relationships that will be created between schools and parents which have been the subject of legal action and the capacity of the courts system to handle these matters. I know that the Minister will do everything possible to oppose this motion. For the first time, his personal decisions will be open to public scrutiny and debate, and I have no doubt that this is something he would like to avoid at all costs. He does not want to hear about the difficulties that schoolteachers, students and parents are facing, and he particularly does not want to hear how educational outcomes might be improved. It is most important, however, that these matters be heard.

I believe that the establishment of the select committee is timely. I commend the motion to the House. Finally, I thank members for their forbearance in allowing me to debate this issue long after time.

The Hon. CAROLINE SCHAEFER secured the adjournment of the debate.

[Sitting suspended from 6.12 to 7.45 p.m.]

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

A quorum having been formed:

NIGERIA

Adjourned debate on motion of Hon. T.G. Roberts:

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—

I. the executions of 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

II. the continued detention of seventeen Ogoni community members on 'holding charges';

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

I. 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

II. calls on the Government of Nigeria to release the seventeen 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.

(Continued from 7 February. Page 819.)

The Hon. SANDRA KANCK: I will not seek to alter the motion, but in speaking to it I want to address the role that Shell has played in Nigeria and the lack of action that it took in the lead-up to the executions that have prompted this motion. The company with which Shell is involved in Nigeria is the Shell Petroleum Development Company of Nigeria, referred to hereafter as the SPDC. It is a joint venture that was set up between the Nigerian National Petroleum Company, which has 55 per cent ownership; Shell has 30 per cent; Elf has 10 per cent and AGIP has 5 per cent. The oilfields they are exploiting date from the 1960s and 1970s. The SPDC withdrew from the Ogoni land in January 1993 and production ceased. According to some of the promotional literature I have from Shell, the staff were not able to return to make the installation safe, and subsequently a number of oil leaks have done quite a deal of environmental damage in Ogoni land. Part of the reason the SPDC withdrew from Ogoni land was that MOSOP, which is the Movement for the Survival of Ogoni People, began campaigning for a greater share of the oil revenue from the Government, political self-determination and also ownership of the oil beneath their land. They have demanded compensation from the Nigerian Government for environmental damage caused by oil exploration and oil exploitation.

As I see what has been happening in Nigeria, it has been very much a question of self-determination for the tribal people, particularly the Ogoni people. There has been a series of tribal battles. There are about 30 different tribes in the delta area close to where the Ogoni live. Allegations have been made that the Government has been siding with particular tribal groups against the Ogoni people and perhaps even assisting them so as to decrease Ogoni political activity. If that is the case, it has obviously had the opposite effect. All Nigeria benefits from the oil that is exploited—at least in economic terms. The SPDC promotional material states that oil revenue makes up approximately 90 per cent of Nigeria's foreign exchange and 80 per cent of the Nigerian Government's total revenue, so it has a highly significant impact on the Nigerian economy. The SPDC states that there are 92 oil producing fields in the Nigerian delta, and five of them are in Ogoni land. What sort of capacity those five have and the contribution they make to the economy is not known to me, but it must be quite considerable, because MOSOP demanded $6 billion in rent and royalties from SPDC.

I wrote to the head of Shell in Australia following the executions of Ken Saro-Wiwa and others and expressed my concern that Shell could have done much more to prevent the executions taking place. Roland Williams, who is the Chairman and CEO of Shell in Australia, replied, defending the role of Shell and enclosing a quantity of promotional and

company defensive literature. I quote from his letter back to me as follows:

> . . . I regard this view [and he was talking about my view that they could have done more] as stemming from insufficient appreciation of the complex matrix of circumstances prevailing there.

In other words, he was politely telling me that I did not know what I was talking about. I do beg to differ with what he has said. If everything in this promotional material were correct, we should be asking Shell to come in and take over Australia, it is so good. He told me in the letter that the Chair of the Royal Dutch/Shell Group had written to the Nigerian Government seeking clemency for the people who were executed last year.

There is a clear relationship between Shell and the Nigerian Government; it is very close and interdependent. As I said, the country is almost totally dependent on oil for its economic survival in the world economy, and Shell has a 30 per cent interest in SPDC. In the promotional literature it describes SPDC as 'the largest Nigerian oil and gas exploration and production company', so it is clear that Shell has a significant impact within that. It is my view that Shell had a voice and it would have been heard if it had wanted to use it. It merely wrote a letter. What about a phone call or a meeting with the appropriate Minister? In one of the documents that Shell sent to me, the Shell management brief on human rights, dated September 1995, it states:

> We are sometimes asked why we don't speak up more against violence or other human rights abuses, with the suggestion that as a major multinational group of companies we must have a great deal of influence with governments. Clearly, we always talk to governments about matters which relate to the legitimate pursuit of our business interests—such as oil and gas exploration licences, the impact of legislation and so on—and we make no secret of this. However, it would be quite different to interfere in political matters which are the preserve of the State, as our business principles set out. We aim to be clear on where these distinctions lie, but if there are grey areas we are prepared to explain and discuss our position openly and honestly with those directly involved. The influence that companies—including Shell companies—can bring to bear on governments is, however, greatly overstated.

In this case it was not overstated. The Ogoni people were particularly protesting against the environmental degradation and destruction of their land which was being caused by SPDC; so in this instance Shell cannot get away with saying that. In another point in this brief it also states:

> As commercial organisations, Shell companies must operate within existing national laws and abstain from participation in party politics and interference in political matters. Shell companies take a constructive interest in societal matters and respect the Universal Declaration of Human Rights, but they cannot sit in judgment on political systems.

I do not concur with what they are saying. Shell is profiting from the exploitation of oil in Ogoni land. I believe that, on that basis alone, they have a moral obligation to intervene in human rights abuses, more so if they are profiting from what is occurring. These nine people would not have been jailed in the first place had not Shell and others exploited their land, so what responsibility does Shell bear for their executions?

I go back to the letter that Roland Williams wrote to me. He stated:

> Overall, companies such as Shell have responsibilities which must be willingly honoured but, at the same time, they have to distinguish between, for instance, making a plea for clemency and interfering in the political and legal processes of a host country.

Given that the only action they took was writing a letter, I would not have thought that seeking, for instance, to have an appointment with the appropriate Minister would be regarded as interference. I think they are just trying to sleaze their way out of this, quite frankly. The promotional material that was sent to me by the Chairman of Shell pats itself on the back for providing water schemes, school rooms and furniture, hospitals and roads in Ogoni land, and so they should have, given the financial benefit that Shell obtains. It does not get them out of the corner, and the knowledge that a bit more than a letter would have been listened to and might have made a difference between nine people being dead or alive must make them feel somewhat guilty.

I return to the point I made earlier: my observation of much of what is happening in Nigeria with the Ogoni people is about self determination. The Hon. Terry Roberts, in moving his motion, referred to events in the past 30 years which have disturbed his faith in the ability of humanity to evolve to a more sophisticated level, and he referred to events in former Yugoslavia, Northern Ireland and South Africa. You can add to that other examples closer to home, in the form of Vietnam and, closer in time, in the form of Chechnya. Having visited Vietnam twice now, I know the history of that war and that it was a staging ground as far as the world saw it between capitalism and communism. But having been there and talked to the people who either lived through the war or fought in it, it was ultimately a war about self determination.

The people of Chechnya are currently fighting the might of the Soviet Army because they took a stand for their self determination. Prior to the Second World War, if we look at India, Ghandi took a similar stand with the British. It is somewhat of an irony that, at the same time as we have in the world increasing globalisation, be it in the form of economic or media globalisation, there is also side by side with that a push for smaller and not larger units of power. It seems to me that wherever there is some group asking for self determination, there is always some bully-boy group hell-bent on making sure they do not achieve it.

The Hon. R.R. Roberts: Or bully-girl!

The Hon. SANDRA KANCK: I do not know that there are many bully-girls.

Members interjecting:

The Hon. SANDRA KANCK: Yes, I have to take that back. There was Margaret Thatcher with the Falklands. Okay, that is one example that proves the rule. Nigeria is certainly a case of the bully-boy tactics. While Nigeria as an entity might have worked under the British, it is clearly not working now, and I believe that the Ogoni people should be given their right to self determination. When any tribe, society or culture has made up its mind that that is what they want, they dig in. History shows it over and over again. They do not stop. If we have the bully-boy there, then bloodshed will result.

The fact that eight Ogonis were executed on 10 November and 17 others remain on holding charges attest to both the richness of the Ogoni land and to the bully-boy role (or bully-girl) being played by the Nigerian Government—but it is a man in charge and it is a military regime. The politically motivated and institutionally sanctioned murders of Ken Saro-Wiwa and others may have achieved something. They have brought to light the Pontius Pilate role that was played by Shell, and is still being played by Shell in Nigeria, and it has also brought to world-wide attention the slowness of the Nigerian Government to institute a system of democracy in that country, and has revealed to the world a deteriorating human rights record on the part of that country. This motion is important because it gently puts pressure on the Nigerian

Government by letting its members know that the world is watching and that they are on notice. I am pleased to support the motion.

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

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 7 February. Page 818.)

The Hon. BERNICE PFITZNER: In closing the debate on the noting of the eighth report of the Social Development Committee on Rural Poverty in South Australia which was tabled in this place on 29 November 1995, I would like to thank members of both Houses for their contribution. I appreciate the interest shown by members from all Parties and note particularly that the member for Custance, himself representing a rural constituency, commended the work of the committee. I also note that the Minister for Primary Industries, in a letter to the committee, stated:

> Firstly, I congratulate you and your committee on the comprehensive report tabled on rural poverty in South Australia. Your report has raised many issues that are of great concern to members of the rural community. Matters such as means testing of assets, social security benefits for farmers, training and readjustment out of the industry are, of course, Commonwealth matters . . .

I will keep my comments brief, as members will know that I spoke at some length on the report at the time it was tabled. I remind members of my earlier comments about the scope of this report. The broad nature of the terms of reference made it difficult to do justice to every aspect of rural poverty in this State. The committee therefore decided to concentrate on the concerns raised by the rural community at the time evidence was taken. I ask those members who feel that certain issues have not been covered in enough detail to remember that the issues addressed were those of greatest importance to people living in rural South Australia at the time of the inquiry.

An issue of concern which was raised in another place was with regard to the committee's use of the term 'poverty' to encompass the dual problems of social economic hardship and isolation. The committee believes that it is not possible to exclude isolation from the definition of poverty. Indeed, it was the rural people who spoke to the committee who raised isolation as a significant factor in the hardship they are facing. It would have been remiss of the committee to have ignored this evidence.

A further concern was raised with regard to recommendation 14 which states, 'Eligibility criteria for CAPF (Country Areas Program Funding) be reviewed by the Department of Education and Children's Services.' It was raised by a member in another place that there is no way that recommendation 14 of this report, that the State Government change the formula, can be implemented. The member based his argument on the fact that the criteria for funding schools under CAPF is determined by the Federal Government. The committee advises members that, while it is true that funding for CAPF is provided by the Federal Government through the NEPS (National Equity Program for Schools), States determine how funds are distributed. State Ministers are guided by NEPS policy, but the Federal Government does not specifically dictate how eligibility for CAPF funding is to be determined.

Another concern was raised that the report did not address the withdrawal of Government services from rural areas. I do not believe that this issue is as simple as my honourable colleague in another place has suggested. For example, it is not feasible to maintain a permanent number of teachers in a school with dwindling enrolments. Rather, what is required is some lateral thinking in how to maintain adequate levels of service in areas with smaller population. Initiatives such as resource sharing and the use of information technology are, for example, being used with great effect in the area of education. One of the committee's recommendations was an expansion of the use of information technology in the provision of remote educational services. The report also details the increasing possibilities of using information technology in the delivery of health services such as psychiatry and renal dialysis. The introduction of innovative initiatives such as these can overcome the problems of service provisions in areas with small population.

I also noticed that the *Advertiser* on Saturday 3 February 1996 reported that the Federal Government has announced an inquiry into country petrol pricing. The article indicated that the South Australian Farmers Federation advocates the introduction of a tiered fuel excise system similar to the South Australian model to replace the current Federal tax. The article states:

> Farmers across the nation have called for a tiered Federal fuel excise as yet another inquiry into country petrol pricing is announced by the Federal Government. . . The newly formed Australian Competition and Consumer Commission introduced a review of fuel price surveillance arrangements after a series of investigations by the Prices Surveillance Authority.
>
> But South Australian Farmers Federation Policy Director, Mr Dean Bolto, said the problem went deeper than unfair pricing.
>
> He said few gains could be made by pressuring oil companies and retailers but a tiered fuel excise system similar to South Australia's would be more helpful. . . 'The (Federal) excise is the big issue—the other things are basically fiddling around the edges,' Mr Bolto said of the inquiry.
>
> 'An excise system that provides for country people would certainly help—a much greater proportion of their operating expenses are taken up by fuel costs than those in the metropolitan areas. An increase in the excise creates a flow-on and reduces our ability to compete in the marketplace.'. . . Mr Bolto said the increase highlighted the difference in the amount raised by the fuel excise and the amount actually spent on road infrastructure by the Federal Government.
>
> Only about 25 per cent of the Federal excise was spent on roads and that figure was dropping, he said. . . But the lack of competition is the concern in rural areas—when you look at the discount city price compared to the undiscounted country price.

While the committee believes this issue to be an important one, the committee did not receive sufficient evidence on this subject to make recommendation and I hope that the Federal ACCC will make some positive contribution on this vexed subject of country petrol pricing.

In closing, I commend the rural community for its honesty and willingness to speak to the committee. Many people shared personal experiences of exceptional hardship and members appreciated their candour. It is heartening to see the recent change of fortune for many rural people, but we must endeavour to ensure that measures are put in place to avoid repetition of the hardships experienced as a result of the most recent downturn in the rural economy. I believe that implementation of the recommendations are important. In particular, I personally feel two recommendations are important: the exclusion of family farms from the Austudy assets test and, secondly, the creation of groups similar to the Eyre Peninsula

Task Force to identify and address local issues in areas experiencing hardship such as the Murray Mallee should be investigated.

Other recommendations made in the report will not only help to put in place these measures but also assist the rural sector to increase its already substantial contribution to the South Australian economy. The committee believes that it is crucial that a robust rural sector is maintained: essential to a healthy rural sector is a healthy farming sector. South Australian farmers make a vital contribution to the State economy. Ongoing initiatives that identify new markets and products will expand export opportunities for the rural sector. Farmers do not want handouts, but they do need assistance to remain on the farm while they develop products which will allow them to exploit the potential of these new markets. I therefore hope to receive positive responses to the committee's recommendations from the relevant Ministers to this end. I commend the report to members.

Motion carried.

LEGISLATIVE REVIEW COMMITTEE: NATIONAL SCHEME LEGISLATION

Adjourned debate on motion of Hon. R D Lawson:

That discussion paper no. 1 on the scrutiny of national scheme legislation and the desirability of uniform scrutiny principles be noted.

(Continued from 18 October. Page 244.)

The Hon. P. HOLLOWAY: I speak briefly in favour of this motion. The discussion paper on the national scheme legislation was brought before the Legislative Review Committee, and I believe that it is an important document and deserves the consideration of this Parliament. As the Hon. Robert Lawson said, the subject matter in this might not excite many members of Parliament, but nevertheless it is absolutely important to the system of Government in which we work. The definition of 'national uniform legislation' that is applied in this document is legislation which is substantially the same and which applies in a number of jurisdictions.

National uniform legislation is nothing new. The best example of that is the Murray River waters agreement which was an issue before federation. In fact, next year we will be marking the centenary of the Adelaide convention, which was one of the three conventions which led up to the Federation of Australia in 1901. One of the key issues during those three constitutional conventions was the Murray River. The other big issue was the railways. If members look at the proceedings of those conferences they will find that over half of the debates of those conferences concerned those two issues.

Even after Federation, it was not until 1914 that the River Murray Waters Agreement was finally brought into fruition. That was an agreement between South Australia, Victoria, New South Wales and the Commonwealth, and the agreement was given legislative backing in each of those four Parliaments. That was just one early example of national uniform legislation. Since then, the amount of national legislation has grown enormously and the methods by which we have achieved uniformity in legislation have also grown. I should like to list some of the factors that have led to those changes. One of the most obvious changes is communications. When the River Murray Waters Agreement was enacted, one of the big issues was navigation along the river. South Australia argued that it needed a supply of water to keep the river navigable. By the time the agreement was enacted in 1914, that purpose became irrelevant because the railways had long since taken over.

In recent years, communications, particularly telecommunications, have totally transformed our society. Many activities that were clearly identifiable within State borders at the time of Federation have now spread nationally and, in many cases, globally. Indeed, increasingly we are seeing the need for international treaties, rather than just national legislation. For matters such as child abduction, we need international treaties to deal with those problems. Communication has also affected the flow of people to and from this country, with a massive increase in tourism, and that has brought all sorts of problems relating to Customs, and so on, and that has increased the need to deal with problems on a national level.

Another example of national legislation is the Corporations Law, with which we had some unhappy experience, but during the 1980s it was inevitable that, if we were to deal with the growing international nature of corporations, we had to come to some national agreement on those laws. In the case of energy resources, where gas pipelines and energy grids now cross State boundaries, State jurisdictions have become less important. There are also environmental factors, such as the greenhouse effect and the ozone layer, and they have forced us to adopt national approaches, even if they are to meet international treaties to fulfil our obligations as a community. In recent years, we have seen economic reform, particularly the Hilmer reforms, which, again, are driving this greater demand for national legislation.

In the discussion paper and when moving this motion, the Hon. Mr Lawson outlined six ways by which national uniform legislation can be achieved. One way is the reference of powers, which we saw in the case of the Corporations Law, but that does have difficulties. In the past, some Governments, particularly some of the more conservative State Governments, have been reluctant to refer their powers, so parts of the country have not been covered in that way. There is also mirror legislation, where all parties pass identical legislation. We have seen cooperative legislation, of which the companies and securities legislation is an example. Under the cooperative scheme, the Commonwealth has jurisdiction over some aspects of corporation law and the States have jurisdiction over other aspects. Cooperative legislation is necessary to govern that area properly.

The fourth method is mutual recognition. That matter was discussed in the previous Parliament and, when that legislation was first brought forward, it was rejected by the Liberal Party at its first attempt, but it ultimately passed. The next method of achieving national uniform legislation is template legislation. The final method is alternative, consistent legislation whereby a jurisdiction is permitted to participate in some scheme by enacting legislation that is consistent with the legislation of a host Government. Another method is the drift of power towards the national level. The use of the external affairs power of the Commonwealth in matters such as the Franklin-below-Gordon dam is a case in point, where the Commonwealth takes over some of the powers that were traditionally seen as those of State Governments.

The need for consistent national legislation is likely to grow, not diminish, within our community. Of course, whenever that occurs, there is the temptation for parochialism, particularly by State politicians who see some advantage in opportunistic opposition. A classic case of that was the random breath test legislation some years ago, when the Commonwealth Government used another method of

usurping powers—its financial powers—by offering a package of money to the States if they introduced certain road safety measures, one of which was a .05 random breath test limit. That was opposed in this Parliament by the then Liberal Opposition, although it is not their position now. That showed that, where there is political advantage in opposing a national approach to measures such as uniform road safety measures, there is a temptation for opportunistic opposition.

These are general comments about the problems of national uniform legislation, but the discussion paper is particularly useful because it identifies problems in relation to ministerial councils, and one could include the Council of Australian Governments (COAG) whereby Ministers or, in the case of COAG, the Prime Minister and Premiers, agree to take a certain course of action that is generally drafted by bureaucrats. That is transformed into legislation that is introduced into the various Parliaments, but we do not have the opportunity to properly scrutinise or debate that legislation because, to be uniform, we have to accept it as it is. It raises the question about how one should effectively scrutinise that legislation, which is one of the key problems that is raised in this paper.

This paper gives some very good examples of legislation which is drafted that way and for which there is no scrutiny by any Parliament. In one case, I think in Queensland, a regulation was changed and, because of the nature of national uniform legislation, that change, which was not subject to parliamentary disallowance, had effect across other jurisdictions. There is a problem in scrutinising legislation that is drafted by the Executive, in some case, without any parliamentary approval.

In conclusion, I make the point that there are real problems with the scrutiny of national uniform legislation. Whereas these problems have always been with us, as in the case of the Murray River, the problems have grown in recent years for a number of reasons, which I outlined earlier. The discussion paper makes a worthwhile contribution to debate on these important matters and I am pleased to support the motion. I believe that it is inevitable that State powers will diminish as a consequence of technological advances and the globalisation of the economy. In my view, it would be futile for us to try to prevent that process because those changes are inevitable.

We would just be playing King Canute. Nevertheless, the way in which some national uniform legislation has been formulated, such as through the Ministerial Council, does pose a threat to Parliamentary processes because it gives greater power to the bureaucracy and the Executive. To the extent that we can reverse that process, I fully support discussion on these matters. Therefore, I am pleased to support the motion.

The Hon. A.J. REDFORD: I support the motion and, in fact, I congratulate the Legislative Review Committee, in particular its Chair, the Hon. Robert Lawson QC, for what I believe is a very important contribution to this topic.

Before I launch into my prepared text, I must say that I do take issue with the last speaker's contribution when he spoke about the inevitability and futility of State Governments in the face of the Commonwealth juggernaut to oppose the ultimate centralisation and uniformity in everything that we do.

The Hon. P. Holloway interjecting:

The Hon. A.J. REDFORD: The honourable member interjects and says that he did qualify it. I still say that, despite that qualification, I disagree with him. Over the past 20 years, people have come to lose confidence in the institutions in our society. The confidence that they have in the institution of Parliament, the confidence that they have in executive Government and the confidence that they have in the courts has been diminished to a substantial extent. There are many reasons for that.

In my view, one of the principal reasons is that people are increasingly thinking that they have lost control of their own individual destinies. Indeed, I think that has contributed to the general decline of Australia's role as an economic power and, in a general sense, its role internationally.

The Hon. T.G. Roberts: Is that social or financial?

The Hon. A.J. REDFORD: The honourable member asks whether that is for social or economic reasons. It is probably a combination of both. The common thread is that ordinary people in ordinary communities are increasingly gaining the sense that they have no control over their individual lives, whereas 30 years ago individual communities, through various volunteer organisations and perhaps through a less aggressive democratic process but a more participatory democratic process, controlled their own lives. They were more willing to serve on school committees; more willing to provide assistance to local government; more willing to be involved in sporting clubs; and they were more willing to make and shape the local environment in which they lived. They were prepared to give of themselves and their time to shape their own local communities and their own environment.

Over the past 20 years, we have transformed into a society where we expect not to have to do that ourselves: we expect some form of central government. If you are in a country area that might be perceived to be Adelaide; if you are in South Australia that might be perceived to be Canberra. Increasingly, people have had greater expectations placed upon them in terms of shaping their own lives and their destiny. The net effect has been that they have lost control of their lives.

If I can respond in one sentence to what the honourable member said about the inevitability and futility of trying to resist the increased centralisation of the Government process in this country, all I can say—

The Hon. T.G. Roberts interjecting:

The Hon. A.J. REDFORD: He might not have said 'centralisation', but if he analyses his own argument that is, in effect, what he is saying. In my view, people are realising that if they do not take control of their own destinies, and do not look after their own futures, the central Government is being increasingly exposed as being unable to do what they can do for themselves.

In relation to the topic, it is my view that the increasing trend towards uniformity in legislation, whilst a few years ago was hailed as being the way to go, has had a number of flaws exposed. I will give members an example of what I am speaking about. If one goes back 20 years to the early 1970s, when the former Chief Justice, Len King QC, was Attorney-General, one realises that he and the then Premier embarked upon a process of transforming consumer protection legislation in this State to provide a model not only to other States in Australia but also internationally for the purpose of consumer protection.

If one looks at the process that they adopted once they achieved the Government benches, they managed to promulgate most of their legislation, and the significant aspects of that legislation, within two years of coming to office. Within

about five years, the rest of Australia had followed their model in terms of consumer protection legislation.

They were successful in bringing about a revolution in consumer legislation in this country because they were able, and had the courage, to promulgate legislation which made South Australia different for a period of time. I put it another way: they were prepared, and had the courage, to be leaders in that area and the others followed.

If one contrasts that with the current process that is happening with the criminal legislation, and if one goes back through the national Companies Code, one can see what is happening. As individual members of society, we are seeing a series of reports and recommendations followed by a long period of inaction. I make no criticism of any individual involved in the process, except to say that if one wants to achieve national uniformity in a Federal system then it will take a very long time to achieve. In my view, if one contrasts it with the approach that was taken with consumer legislation reform in the early 1970s, it will take much longer.

I think there is an essential conflict in the issue of uniformity of legislation. The conflict is between the desire for uniformity versus the ability of South Australia—if we look at it from our perspective in this Chamber—uniquely to shape its destination in the legislative framework. I believe that one needs to be very careful about embracing the concepts of uniformity as opposed to allowing individual communities to shape their own destination and where they want to be in the future. I will not go into great detail on that, because that is the essential debate that will occur over the next six or seven years in relation to constitutional reform.

The Hon. Diana Laidlaw: We have that all the time with the road traffic law.

The Hon. A.J. REDFORD: The Hon. Diana Laidlaw interjects and says that we have that problem with the road traffic law. I think that is a good example of where we may have an individual problem within South Australia, yet the political desire for uniformity may delay the promulgation of urgent and necessary legislation that is appropriate for our own unique situation. It is very important that we are mindful of those agendas.

In summary, I would urge members seriously to consider that we live in a unique State. I believe that the Dunstan-King consumer protection legislation is a model for the way in which a whole country can be changed without going through the process of centralising the decision making process, and without going through the process of slowing down that process and enabling what were, essentially, very middle level political leaders—Don Dunstan being Premier of a State of a million people, as opposed to other leaders of much larger and more populous States in this country—actually to initiate very important, necessary and, at the end of the day, widely approved legislative reform.

I must say that, as a lawyer who has been involved in the practice of the criminal law, I have watched the development of the process of uniform criminal legislation in this country with a great deal of interest, and one shining thing stands out in that whole process, that is, that nothing has happened. This process commenced in the late 1980s, and we have had a series of papers sent out to various people who are directly interested in the criminal law, and from there nothing has happened.

The other negative aspect about that whole process in the development of a model criminal code has been that the only people who have become directly involved in it are judges and lawyers and, to a lesser extent, law enforcement officers. The ordinary people, for whom, after all, we make laws, have not been involved at all in that process.

The Hon. P. Holloway interjecting:

The Hon. A.J. REDFORD: There is one reason for that, and I will come back to the honourable member's interjection in a minute: that is, that the process where it is conducted in Canberra, involving a large number of high level bureaucrats and a small number of political figures, is so remote from ordinary people that they do not become involved at all in that process. It has been slow; it has been cumbersome; and, if one looks at the process in terms of the development of the model criminal code, one sees that extraordinary amounts of time have been spent on considering potential problems with a proposed model criminal code, completely ignoring the current problems that exist with the criminal law.

There has never been a balancing or any great impetus to drive the process through the system. With changing personalities involved in that process and with changing State Governments, with changing Federal Governments and changing bureaucrats, there has not been an impetus to drive that thing through quickly. All of us on both sides of the Chamber would recognise that any Government will achieve more in the first 18 months in office than it will in the next 2½ years in terms of change.

The Hon. P. Holloway interjecting:

The Hon. A.J. REDFORD: The honourable member interjects and says that we have run our race. I suggest to him that the rumblings I hear from the executive arm of Government from this side is that that is not so. But to drive the necessary reforms through it is much easier to adopt the Dunstan-King model than it is to adopt the model that we are currently looking at in terms of developing a model uniform criminal code. Indeed, if we want to look at the actuality of how that process works, we have only to look at the corporate legislative scheme, where it took some 14 years to develop national corporate laws. For that 14 years we had a mishmash of laws that were antiquated and State Governments that felt paralysed because they were waiting for this national process to go through the system.

The Hon. P. Holloway interjecting:

The Hon. A.J. REDFORD: The honourable member interjects and says that the State Government has had no choice because of split jurisdiction, and I think that is a fair point. By the end of the day we had State Parliaments around this country recognising the problems in the law and saying 'We will not do anything about those problems because all will be fixed by this national uniform code and, ultimately, this national legislation,' as it turned out to be, because of various decisions of the High Court. Even when we revisit that legislation—and it is now Commonwealth legislation—everyone, even the current Federal Attorney-General (Michael Lavarch), concedes that there are major and fundamental problems with the legislation. It is cumbersome and bureaucratic, etc. But there has been no quick response to those problems.

I suggest that one of the principal reasons for that—and I will be magnanimous in this—is not that the current Federal Labor Government lacks the energy or the drive to deal with the issues; it is that whole process of how a centralised bureaucracy and a centralised Government operates and just how cumbersome it has become simply because it is so centralised.

Another example of uniform law in this country is, in effect, the common law. With the promulgation of the High Court, effectively in Australia we have a national uniform

system of common law. I do not think I am telling my legal colleagues in this place anything when I say that there is a huge debate within legal circles, both at an academic and at the practising level, as to whether or not the common law—and I am talking about the common law in terms of how it is expressed—is an appropriate way to have laws framed so that ordinary Australians can go about their daily lives understanding what the law is.

We have a common law system of criminal law in this State, and if someone came into my office and said to me, 'Angus, show me which book tells me the definition of murder, assault, manslaughter, larceny, fraud or any of those,' I would be able to show him. In fact, I would take him into a library worth about $80 000 and say, 'Look, client, Mr Bloggs, it is in there somewhere.' I contrast that with the system (and I relate it to the criminal law) in Singapore, which some people have suggested has not as refined a legal system as we have in this country, although in some respects I would take issue with that. There I can go to a book (with about 240 pages) called the *Criminal Law Code*, for which I can pay $1.80 and which I can give to my client. He can pick it up and, provided that he has a reading age of over 14 or 15, he will get a fairly basic understanding of what is criminal and what is not.

And we do not have that in this country. The ability of a smaller jurisdiction to pass laws that people can understand and accept is far greater than a national central approach to this issue. Again, if I go back to the corporate laws that exist in this country, I defy anyone without a law degree, an extraordinary amount of time and patience and a mind as dry as chips to be able to pick up a book and read it and, at the end of a couple of hours, to understand it. The law, particularly that as drafted by the Commonwealth Parliamentary Counsel, is drafted in such a way that no ordinary person could possibly understand what they are getting at.

The Hon. P. Holloway: Our courts have had something to do with that, too.

The Hon. A.J. REDFORD: I take issue with that, but I will not go down that track and be baited by it. I defy the Hon. Paul Holloway—and I will give him a couple of years because he has a bit of time to go in this place—to pick up a piece of legislation passed by the Commonwealth which is basically simple. The national draftsmen have a singular inability to draft legislation which an ordinary person can understand.

The Hon. P. Holloway interjecting:

The Hon. A.J. REDFORD: The Hon. Paul Holloway keeps interjecting—

The Hon. Diana Laidlaw: He is agreeing with you.

The Hon. A.J. REDFORD: I am not used to interjections where members agree with me; it is a novel experience. If that is an example of national uniformity, where laws are being passed in Canberra which nobody, including judges and lawyers, can understand, then they can stick their uniformity somewhere else. If one contrasts the way in which State legislation is drafted and looks at any State one will see that the performance of State parliamentary draftsmen, particularly here in South Australia, far and away exceeds the capacity of their Federal counterparts.

With regard to the comments made about the perceived problems of uniformity being uniformity of drafting, if the option is having a lack of uniformity of drafting versus the way the laws are drafted in Canberra, quite frankly, *vive la difference*: I will put up with having slightly different laws here in South Australia from those which might prevail in New South Wales, Queensland or Victoria, because at least we have laws which we can understand.

It is not all a one-way street. We have extraordinary problems in the way in which society has developed in terms of communication and the way in which commerce is conducted across State borders. Last Wednesday night the Premier of Victoria, Mr Kennett—a very enlightened man—said that the importance of national boundaries is becoming increasingly irrelevant. I give two examples which the current Attorney and Deputy Premier are grappling with. The first is the way in which pornographic material is conveyed through the Internet. We have a situation where State Governments are becoming increasingly irrelevant and are finding it increasingly difficult to deal with those issues; but at the same time so are national Governments.

The Hon. P. Holloway: Now you're agreeing with me.

The Hon. A.J. REDFORD: On that issue I am sure we are in agreement. National Governments do not seem to have the answers to that problem. Standing here tonight, I do not have any simple answer to that problem, but it certainly needs a great deal of discussion. The second example is the use of 0055 numbers. If one sits at home and watches the Channel 9's Wide World of Sports on TV on a Saturday afternoon one can see that they make more money out of 0055 competitions than they make out of the sale of advertising, judging by the number of 0055 competitions that they run.

There appears to me to have been a big transformation during the past seven or eight years. Previously we used to sell raffle tickets, conduct lotteries and establish casinos under State legislation, and now along has come the 0055 number. As I understand it, they pay little tax, if any; they are not bound by any rules of disclosure; they do not have to justify to the public where the money goes and what it does. At the end of the day it is just another form of gambling. It is pleasing to see that the Treasurer is attempting to deal with it. That issue cannot be dealt with by an individual State. Certainly, there is a need for national legislation in this area, unless we are to have some way in which we can control our destiny by controlling it locally, although I am sure that that will not be an easy road to go down.

The report refers to scrutiny committees. I support the need for such committees, because at the end of the day parliamentary supremacy should remain if we are to retain the Westminster system of Government. I am not just saying that it ought to be supreme over the Executive arm of Government but that it should have the ability to change and react to ordinary people in our community. Parliamentary supremacy is the best way to achieve that; indeed, it is the best reflection of democratic principles in terms of a system of Government that I have seen. I believe that the establishment of scrutiny committees, and a refined establishment of a scrutiny committee within the Legislative Review Committee process, is a high priority, particularly when some of the issues that are highlighted in this report are examined.

The Hon. T.G. Roberts: What about a changed role for the Legislative Council?

The Hon. A.J. REDFORD: That is another issue.

The Hon. T.G. Roberts: No, confining the Legislative Council's role as a House of review only.

The Hon. A.J. REDFORD: I was just about to embark on that. I have heard a former member of this place, the Hon. Ren DeGaris, make those comments. He said that he believes that the Executive arm of Government should be completely withdrawn from the Upper House and that it should become

completely a House of review. If one adopted that thought process one could look at the Senate, for example, and await Senator Ray and his factional colleagues to hand over the Executive power that they currently have to their colleagues in the Lower House, and then it would become a true House of review. Quite frankly, in the political context in which we currently live, I think that that is a pipedream.

I have not sought to cover many of the issues that have been covered in the Legislative Review Committee report. However, I urge every member in this place and, indeed, every member in the other place to carefully scrutinise what this report is saying, because it raises very important issues so far as we as legislators are concerned. Indeed, it raises very important issues as to whether or not small communities—if one takes South Australia as a small community in a global context—can and should retain the ability to control their destinies without necessarily having someone from another State or city controlling how they go about their daily lives.

Indeed, to some extent, commerce and technology have had an influence on that, but I also believe that, if we are to have a strong and vibrant democracy, ordinary individuals should believe and have the confidence in themselves that they can change their own local communities without the need for intervention by a centralised bureaucracy or some centralised form of Government. It is a matter of trying to achieve a sensible balance, and I am sure that in the next four to five years, if the debate is done in a good spirit in terms of amending our Constitution, we will make some strides in that area. I commend the motion.

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

FISHING, NET

Adjourned debate on motion of Hon. R.R. Roberts:

That the Regulations under the Fisheries Act 1982 concerning Ban on Net Fishing, made on 31 August 1995 and laid on the Table of this Council on 26 September 1995, be disallowed.

(Continued from 30 November. Page 750.)

The Hon. K.T. GRIFFIN (Attorney-General): The Government opposes the motion. The Hon. Robert Lawson spoke on the discharge of a motion sponsored by the Legislative Review Committee for disallowance and indicated that the committee had heard evidence from a number of witnesses representing a number of different interests in the fishing industry. He also indicated that the committee considered that there were substantial arguments both for and against the imposition of the ban. The committee heard evidence that recreational net fishing is not generally permitted in fisheries in other parts of Australia. The honourable member also indicated that 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. So, the notice of motion from the Legislative Review Committee was discharged.

Prior to December 1980, a recreational fisher could register up to two fish nets with a maximum length of 75 metres and minimum mesh of 5 centimetres. In 1980 a number of restrictions were placed on the use of fish nets, including limits on the mode and the area in which the net could be used. In December 1985 (remember, this was under the previous Labor Administration) a freeze on the further issue of recreational fish net registrations was implemented in response to what was seen as an unacceptable number of registrations. There had been an increase from 11 582 nets in 1980-81 to 14 942 nets in 1984-85.

The registration and use of recreational nets was included for consideration in the 1990-92 review of the marine scale fish fishery. Emanating from this review was the decision to continue with the registration arrangements on the understanding that recreational netting would diminish over time by natural attrition, but with the requirement that all nets had to be attended within 50 metres by the person in whose name the net was registered. The attendance requirement was considered to be a means of reducing the level of fishing effort applied by this method of recreational fishing. This was introduced in the regulations in September 1994. As at 8 August 1995, there were 6 020 renewable registrations for recreational gill nets.

There are really two pertinent issues in support of the total prohibition of recreational nets, and they relate to resource management and equity. Gill netting tends to be non-selective in terms of both the number of fish and the species that are taken. The mortality of unwanted or undersized fish or those in excess of bag limits is very high once the fish have been meshed in a gill net. Most of South Australia's inshore scale fish stocks are considered to be over-exploited. There are significant concerns over the status of tommy ruff (Australian herring), the Australian salmon and the yellowfin whiting, the target species of recreational gill net fishers.

Prior to the new regulations being introduced by the Government, the former restrictive access provisions to recreational gill nets did not comply with the fundamental and internationally accepted principle of recreational fisheries management in democratic societies. If access to the use of a particular item of recreational fishing gear is to be allowed it should be available to all South Australians. Providing an equal choice of access to recreational gill nets for all residents of South Australia which applied prior to December 1985 presents difficulties in managing the level of effort and catch from this method of fishing and could result in a further decline in inshore scale fish stocks.

Recreational gill nets contribute to the overall fishing effort and exploitation of our fish resources. The potential level of fishing activity from this method of fishing, even under the previous restrictive management arrangements, is very large. There is sufficient evidence, both scientific and anecdotal, to support regulations and management arrangements that will reduce the catch of fish species such as tommy ruffs, yellowfin whiting and Australian salmon. The nature of gill netting is such that it is very difficult to effectively manage either the quantity or variety of fish caught. This would clearly reintroduce difficulties in managing the resources if the former access arrangements were reinstated as a result of the regulation being disallowed. The information which has been provided to me indicates that the ban on nets is an appropriate mechanism by which the added pressures on the fishery will be relieved to some extent. The advice we have is that, notwithstanding the concerns which have been expressed by the Hon. Mr Ron Roberts, the fact is that recreational gill netting can no longer be justified.

One should recognise that it has caused some consternation. Members constantly receive representations about it, and the disadvantage it may have created for those who previously had access to this opportunity. Notwithstanding that, the

Government takes the view that the package of management arrangements is appropriate and necessary for the purpose of protecting in shore scale fish stocks. For these reasons, we do not support the motion.

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

LOCAL GOVERNMENT FINANCE AUTHORITY (REVIEW) AMENDMENT BILL

The House of Assembly intimated that it had disagreed to the Legislative Council's amendment, but had made the following alternative amendment in lieu thereof:

Clause 15, page 4, lines 5 and 6—Leave out subsection (3) and insert new subsections as follows:

(3) Interest, at the standard commercial rate for accounts established under section 21 of the Public Finance and Audit Act 1987, will be payable on amounts held under subsection (2) and no fees or imposts will apply with respect to the maintenance or operation of the account.

(3a) Amounts held under subsection (2), together with interest accrued under subsection (3), will be applied for local government development purposes recommended by the Local Government Association and agreed to by the Minister in accordance with principles agreed between the Minister and the Local Government Association.

Consideration in Committee.

The Hon. DIANA LAIDLAW: I move:

That the Council do not insist on its amendment and that the alternative amendment made by the House of Assembly be agreed to.

In support of the motion, I make the following comments. As the Government indicated in another place, there is no objection to including clause 15(3) of the amendment as passed by the Legislative Council. The subclause specifies that interest will be accrued on the TER account, and the account will attract no fees or charges. These accounts are not liable for taxes.

However, the remaining part of the amendment, as passed by this place, continues to cause considerable concern to the Government. We believe there are sufficient deficiencies in the amendment from a State perspective. In particular, by removing all responsibility for the disbursement of the TER funds or audit of disbursement of the funds from the State Government, the amendment denies the State the opportunity to discharge its responsibilities for implementation of State and national competition policy should the need arise. This position is not acceptable to the Government.

It also poses other difficulties. I would highlight that it has never been the intention of the Government that TER funds paid by the Local Government Finance Authority would leave the local government sphere. What is needed from the Government perspective is a mechanism to allow the money to be dispersed within the local government sphere which acknowledges both that it is essentially local government money and that the State has an interest in reassuring itself that these potentially large sums of public money—

The Hon. M.J. Elliott interjecting:

The Hon. DIANA LAIDLAW: That is right. It is essentially local government money—we have always acknowledged that—but we work in an environment that is more sophisticated than just the emotional context of local government money. We work in an environment where, as a State, we are obliged to work with certain national competition policies. So, I repeat: while essentially local government money, the State has an interest in reassuring itself that these potentially large sums of public money are spent in ways that conform with State and national economic policy and principle.

The Local Government Association has an important role as a representative association of local government authorities, and is a guardian of local government interests. However, local government as such is not a party to the legal instruments setting out State and national competition policy. That is for the State, and that has been agreed at the State and national level. Because of that, we believe very strongly that the amendment now proposed and passed by the House of Assembly is the one that should be adopted by the Legislative Council.

I urge the Council to consider the amendment most seriously. It is based on considerable discussion with the Local Government Association. It has been crafted to provide a mechanism that meets the combined objectives of the Local Government Association in terms of recognising that these are local government funds, but also the objectives of the State Government which recognises that the State, not local government, is the party to legal instruments setting out national competition policy. I commend the amendment to members.

The Hon. P. HOLLOWAY: On behalf of the Opposition, I indicate that we will support the motion of the Minister, with just a little reservation. The amendments I originally moved to the Local Government Finance Authority Bill were to really protect the way in which the proceeds from the tax equivalent regime introduced under the Bill could be spent. The tax equivalent regime had been introduced in response to the national competition guidelines, and the original Bill moved by the Minister provided for a Government veto on the use of those funds. The amendments I originally moved on behalf of the Opposition allowed for those funds to be determined by the Local Government Association.

It is my understanding, and the Minister has confirmed, that there have been further discussions between the Minister and the Local Government Association and, as a result, this compromise has been reached whereby, although the Minister does have to agree to the use of the funds, it will be, as the amendment provides, in accordance with principles agreed between the Minister and the Local Government Association. So, as the Local Government Association will therefore be involved in the discussions, and in view of the assurances given by the Minister and the compliance of the LGA in this matter, we will accept the compromise position that has been agreed. Therefore, I support the motion.

The Hon. M.J. ELLIOTT: The Democrats will support the proposed amendment. I indicated when last I spoke that the amendments moved by the Hon. Paul Holloway were essentially the same as some that I had drafted, so I believed they were more than adequate. I also indicated at that stage that, if the Minister and the LGA could reach some consensus, that would be quite satisfactory to me. It is most unfortunate that it has gone backwards and forwards between the Houses. I had the feeling when last I spoke that the two were not that far apart. Certainly, it does appear that the new Minister—

The Hon. Diana Laidlaw: A benefit of the house of review!

The Hon. M.J. ELLIOTT: Absolutely. It does appear that the new Minister is consulting somewhat more regularly and taking a little more notice of the LGA than did the

previous Minister, and we can only hope that that is a good indication in relation to what we believe will be some significant changes to the Local Government Act that the Government has indicated may be coming in late this year or early next year. With those few words, I support the motion.

The Hon. DIANA LAIDLAW: Briefly I thank the Hon. Paul Holloway and the Hon. Michael Elliott for their support for the amendments moved in the House of Assembly. The position taken by the Government and the LGA confirms—if any of us needed confirmation—the value of this House and the time that it does provide in terms of reconsidering issues. I also would emphasise that, on reflection, perhaps the Government could have conferred more with the Local Government Association on this matter but, with changes of Ministers and portfolios and Christmas, not all that the Minister wanted to achieve was possible within the very short time frame that he had within the portfolio. The Minister and I are encouraged by the positive comments that have been made by honourable members tonight in relation to the Bill and we thank members for their support.

Motion carried.

SUPPLY BILL

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

EDUCATION (TEACHING SERVICE) AMENDMENT BILL

The Hon. R.I. LUCAS (Minister for Education and Children's Services) obtained leave and introduced a Bill for an Act to amend the Education Act 1972. Read a first time.

The Hon. R.I. LUCAS: I move:

That this Bill be now read a second time.

The purpose of this Bill is to facilitate teacher classification and employment practices arising from the 1989 Curriculum Guarantee Agreement between the South Australian Institute of Teachers and the then Minister of Education. The Curriculum Guarantee Agreement provided for restructuring of the teaching service. Significant features were:

- a broader career structure to provide additional leadership positions in schools;
- the Advanced Skills Teacher (AST) classification which recognises and rewards outstanding classroom teachers;
- fixed term appointments;
- fall back arrangements to a particular classification after a specified period of service in a leadership position.

In implementing the Curriculum Guarantee Agreement, concerns have arisen about the capacity of the Education Act to support consequential employment practices. The Education Act only provides for personal classification, with no provision for fixed term appointments. It lacks the appropriate legal framework for the leadership structure defined by the Curriculum Guarantee Agreement. For example, under the provisions of the Act a principal's classification can only be reduced by the application of section 17 (incapacity) or section 26 (disciplinary measures). When the principal Act was enacted in 1972, it was not envisaged that the classification of a principal would be reduced outside of these circumstances. However, the Curriculum Guarantee Agreement introduced fixed term appointments, with an agreed fall back position at the conclusion of the tenure of the position.

Without amendments to the Act, there may be an argument that all officers currently and previously appointed to leadership positions could claim the relevant classification until retirement or resignation. This would be contrary to the spirit of and reasons for the Curriculum Guarantee Agreement. It would undermine the opportunity for all officers of the teaching service to access promotion positions through merit selection. The financial costs of such an outcome would also prevent the creation of new leadership opportunities for employees under this Act. These costs could amount to millions of dollars in salary claims.

The amendments are also required to support the implementation of the AST level 1 classification. As part of the Teachers (DECS) Award, as agreed between SAIT and the department, there are provisions within the award for a teacher to be assessed as entitled to the salary of AST level 1 for a period of five years. At the conclusion of this time, the AST 1 is required to undergo an agreed process of review to be entitled to the AST 1 salary for a further five years. As explained previously, the Act makes no provision for officers to have their classification reduced other than for reasons of incapacity or discipline. The effect is that an AST 1 could receive this salary until retirement or resignation, even though they no longer met the criteria of an outstanding classroom teacher. This is in direct opposition to the original intent of the Curriculum Guarantee Agreement and the subsequent introduction of the AST 1 classification.

In response to these concerns the Bill provides for a dual classification system of personal classification and classification of a position. It provides the means for teachers to be appointed to leadership positions for a fixed term and for their classification to be varied at the end of the term where appropriate. This is existing practice, agreed to between the department and SAIT. The Bill makes provision for, but does not specify, a range of personal and position classifications. It gives the Director-General the power to define these classifications.

The Education Act provides for the establishment of the Teachers Classification Board, which has the responsibility to recommend and review classifications. The Bill proposes that the board be abolished as its functions have been largely overtaken by developments such as merit selection and a simpler teacher classification process. The remaining function of the board is to review classifications. The classification board has not met since August 1991. It is not necessary to have such a large board, which requires appointment by the Governor, to manage classification reviews. As a more efficient avenue of review, the Bill proposes a review panel structure modelled on the Public Sector Management Act classification review process. Supporting regulations will exclude the ability of a teacher to seek a review for classification as an AST 1. A process of review for this purpose is provided for in the Teachers (DECS) Award. SAIT and the department have agreed that a further avenue of review is not required and would only serve to complicate an already effective process.

The Bill proposes that the Director-General have classification powers, while the Minister remains the appointing authority. The Bill includes transitional and ratification provisions to provide for current agreements relating to fixed term appointments and fall back under the curriculum guarantee. This provides the necessary legislative protection for officers appointed since 1989 to curriculum guarantee leadership positions with prescribed conditions.

The Education (Teaching Service) Amendment Bill is essential to providing the necessary legal framework for the operation of the 1989 Curriculum Guarantee Agreement and

its associated existing employment practices. Extensive consultations with SAIT have occurred during the preparation of this Bill. The Bill should meet the needs of SAIT while providing an effective legislative framework to support current personnel policies and procedures within the department.

The Hon. M.J. Elliott: Have they seen this Bill?

The Hon. R.I. LUCAS: Yes. The reason why this Bill has been delayed for some 12 months is that there has been 12 months of negotiation with SAIT through the various drafting stages of the Bill to seek agreement from SAIT to the introduction of the legislation.

I am sure that members will consult with SAIT, and they can speak for themselves, but having delayed the introduction of this Bill for 12 months to seek SAIT's agreement the advice provided to me is that SAIT has agreed to all provisions in this Bill save for a particular provision, which has been included in the Public Sector Management Act and which is now included in this Bill, which refers to whether or not SAIT must comply with the appointment of nominees to a particular panel.

On my recollection, the legislation caters for the circumstance should SAIT not appoint a person to the review panel, as the Public Sector Management Act did; that is, if a union did not appoint someone, a process could be followed to ensure that the panel could proceed. As I understand it, SAIT has never done that and would give an undertaking that it would not do it and, therefore, would prefer not to see that provision in the Bill. I am sure SAIT will explain to members interested in the legislation its view on that aspect of the Bill and I will leave that for the union. Save for that provision, my advice is that, after 12 months of negotiation, consultation, discussion and sitting down with SAIT, as is our wont, to try to get agreement on these issues, SAIT agrees with all the other provisions in the legislation. I commend the Bill to the Council and I seek leave to have the detailed explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Clause 1: Short title

Clause 2: Commencement

These clauses are formal.

Clause 3: Amendment of s. 5—Interpretation

The definition of the Classification Board (which is abolished by this measure) is removed and definitions of classify, reclassify and promotional level are inserted.

Clause 4: Insertion of Part 3 Division 1A

DIVISION 1A—CLASSIFICATION, PROMOTION AND TRANSFER

15A. Classification of officers and positions

This section empowers the Director-General to fix the duties and titles of officers and positions in the teaching service, classify officers in the teaching service and classify positions in the teaching service at promotional levels.

15B. Appointment to promotional level positions

This section empowers the Minister to appoint officers to positions in the teaching service classified at promotional levels. It also empowers the Director-General to appoint an officer to a position classified at a promotional level in an acting capacity for a term not exceeding 12 months.

15C. Transfer

This section empowers the Director-General to transfer officers between positions in the teaching service (but not so as to reduce their salary without their consent or effect promotion of officers to positions at higher classification levels).

Clause 5: Amendment of s. 17—Incapacity of members of the teaching service

This clause enables the Director-General to vary the duties of an officer and assign an appropriate classification to the officer if the Director-General is satisfied that the officer is incapable of performing his or her duties satisfactorily. However, the Director-General must, before taking action or making a recommendation that would result in reduction of remuneration or retirement, be satisfied that a transfer or variation of duties without reduction of remuneration is not reasonably practicable in the circumstances.

Clause 6: Amendment of s. 20—Taking of long service leave

This clause makes a consequential amendment.

Clause 7: Amendment of s. 26—Disciplinary action

This clause empowers the Director-General to take disciplinary action against an officer of the teaching service, by reducing the remuneration of the officer by means of transferring the officer to another position, varying the officer's duties and classifying or reclassifying the officer, or removing an entitlement to an increment of remuneration.

Clause 8: Substitution of Part 3 Division 6

This clause repeals sections 28 to 33 of the principal Act dealing with the classification of officers of the teaching service and replaces them with new provisions.

DIVISION 6—CLASSIFICATION

28. Application to Director-General for reclassification

Subject to the regulations, this section gives an officer a right to apply for reclassification if he or she considers that his or her current classification is not appropriate in view of his or her duties or on any other ground. The section also empowers the Director-General, on application, to reclassify an officer or an officer's position.

29. Classification review panels

This section empowers the Minister to establish panels to review the classifications of officers and positions in the teaching service. Panels are to consist of three persons appointed by the Minister, of whom one will be appointed to chair the panel and two will be officers of the teaching service selected by the Minister, one from a panel nominated by the Institute of Teachers, and the other from a panel nominated by the Director-General. Members will be appointed for a period of two years and may be reappointed. In the event that the Institute of Teachers fails to nominate an officer, the Minister may select an officer instead.

30. Review of Director-General's decision

This section gives an officer who is dissatisfied with a Director-General's decision on an application for reclassification the right to apply for a review of the decision by a review panel. A review panel has the power to confirm the existing classification or decide that the officer or officer's position should be reclassified, in which case the Director-General is required to reclassify the officer or officer's position in accordance with the review panel's decision.

31. Exclusion of other appeal rights

This section provides that there is no appeal against a decision of the Director-General on an application under section 28 (without affecting the right to apply to a review panel for a review). It also provides that there is no appeal from a decision of a review panel, or a reclassification of an officer or officer's position in accordance with a decision of a review panel.

Clause 9: Amendment of s. 53—Appeals in respect of appointments to promotional level positions

This clause amends section 53 so that it applies in relation to positions in the teaching service classified at a promotional levels (other than acting appointments for not more than 12 months and transfers of officers between positions in the teaching service).

Clause 10: Transition and ratification

This clause provides that—

- positions in the teaching service established before the commencement of this measure will be taken to have been established under the principal Act as amended by this measure;
- classifications of officers and positions in the teaching service established before the commencement of this measure will be taken to have been established under the principal Act as amended by this measure;
- appointments to such positions (including those for a fixed term) made before the commencement of this measure will be taken to have been made under the principal Act as amended by this measure;
- classifications of officers (including those for a fixed term) assigned before the commencement of this measure will be taken to have been assigned under the principal Act as amended by this measure.

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

RAIL SAFETY BILL

The Hon. DIANA LAIDLAW (Minister for Transport) obtained leave and introduced a Bill for an Act to promote the safe construction, maintenance and operation of railways as part of a national approach to rail safety regulation; and for other purposes. Read a first time.

The Hon. DIANA LAIDLAW: I move:

That this Bill be now read a second time.

This Bill implements the Intergovernmental Agreement on Rail Safety 1995 which provides for a nationally consistent approach in railway safety regulation and a more competitive rail sector with the entry of third party operators.

The Bureau of Transport and Communications Economics has assessed the social cost of rail accidents in Australia at around $100 million per annum.

Apart from improving rail safety performance national rail safety regulation will generate gains of an economic nature by increasing transport efficiency, ensuring compliance with national competition policy reforms and promoting market confidence in the ability of the rail industry to advance organisational reforms.

The issue of a national approach to rail safety regulation was explored at a meeting of the Australian Transport Advisory Council (ATAC) in June 1993, in the context of a number of emerging developments in the rail industry including:

1. the growing prominence of interstate rail operations,
2. the opening up of access to rail infrastructure to private operators; and
3. the introduction into the New South Wales Parliament of a Rail Safety Bill, which advanced a new approach to rail safety.

Initially ATAC Ministers requested that an intergovernmental working party report on the harmonisation of rail safety standards and the potential for an intergovernmental agreement on the issue. South Australia was represented on this working party by the then State Transport Authority.

In February 1994 the newly formed Australian Transport Council (ATC) endorsed the recommendations of the working party's report entitled 'A National Approach to Rail Safety Regulation' based on:

1. safety accreditation of railway owners and operators;
2. mutual recognition of accreditation between accreditation authorities;
3. development and implementation of performance based standards;
4. greater accountability and transparency; and
5. facilitation of competition, plus technical and commercial innovation, consistent with safe practice.

The ATC also requested the establishment of a Commonwealth/State task force (with South Australia's representative being TransAdelaide) to prepare an intergovernmental agreement on rail safety, providing for both:

- national arrangements which focused on efficient and safe interstate operations; plus
- a framework for the States and Territories to adopt a consistent approach to intrastate rail safety regulation.

The intergovernmental agreement (IGA) was endorsed by Ministers at the Australian Transport Council in April 1995 and has now been signed by the Commonwealth and all mainland States. Tasmania and the Northern Territory are still considering their position.

The task force and a technical issues group have been retained to oversee the implementation of the intergovernmental agreement and the development of the Australian rail safety standard.

The intergovernmental agreement requires all parties to legislate, or take appropriate administrative action under existing legislation, to enforce the terms. This Bill recognises that there is no existing legislation in South Australia upon which to implement the intergovernmental agreement by administrative action.

RAIL SAFETY ACCREDITATION AND MUTUAL RECOGNITION

Consistent with the intergovernmental agreement, the Rail Safety Bill provides for:

1. all owners and operators involved in interstate rail operations to be accredited in their own or another jurisdiction consistent with the Australian rail safety standard;
2. the mutual recognition of accreditation between jurisdictions, subject to local requirements; and
3. a dispute resolution mechanism.

Although the South Australian Government is no longer involved in operating interstate trains, there are some jointly used tracks and other points of conflict between the Adelaide suburban rail system and interstate operations for which the safety accreditation provisions in the Bill are relevant. And, as is the case in other States, the Government believes it is important that safety accreditation should also embrace all intrastate railway owners and operators.

Historically, the South Australian Railways, the State Transport Authority, Australian National and TransAdelaide have been both the operator and self regulator in respect to operational safety. Whilst those organisations were the sole providers of rail transport, this arrangement was deemed to be satisfactory.

However, these operators still required a 'reciprocal transit rights agreement', an 'operations and staffing agreement' and other formal arrangements with Australian National—none of which adequately cover private operators.

This Bill provides for accreditation to embrace:

- Government owned railways;
- private freight operations including mineral haulage;
- historical trains operating within the State;
- private operators running local tours; and
- any private operators who may be involved in the provision of future suburban rail services.

In the meantime, mutual recognition of accreditation of interstate owners and operators and the terms of the intergovernmental agreement will allow the movement of interstate trains, both private and Government owned, throughout Australia unimpeded by inconsistent safety standards.

Mutual recognition will reduce the significant effort and cost to interstate operators, including the National Rail Corporation, of undertaking the full process of accreditation in each State and reduce the associated duplication of the accreditation process by each State. Instead, an accredited owner or operator will be accepted as having met all the requirements of the Australian rail safety standard in all other jurisdictions and therefore be suitable for immediate accreditation subject to meeting any additional local requirements.

INVESTIGATION

The Bill provides for an accredited owner, operator or a

Party to the intergovernmental agreement to have access to independent investigations of railway accidents or serious incidents involving interstate operations. It also provides for a State or Territory to have access to independent investigations of accidents or serious incidents involving intrastate operations. Independent investigators , when required, may be drawn from a national panel composed of a number of experienced rail investigators nominated by each party to the IGA.

The primary purpose of having an independent investigator available is to avoid the problems created when agreement cannot be reached or the cause determined. Historically there have been continuing problems in South Australia with both internal and joint rail investigations, particularly when another party has been involved. Such investigations have often dealt with the cost and blame and not the cause.

It is important that independent investigations are available to the parties when necessary. A panel of independent investigators has now been established under the intergovernmental agreement, with the recent fatal rail accident in Western Australia currently subject to an independent investigation chaired by a member of that panel.

INCIDENT REPORTING

The Australian rail safety standard specifies categories of railway accidents and incidents which are to be recorded by owners and operators. The Rail Safety Bill requires accidents and incidents to be notified to the accrediting authority under a scheme which is consistent with requirements in other States.

The IGA provides for the establishment of a national database for the exchange of information on rail accidents and incidents. This will allow such incidents to be monitored more effectively, analysed and any trends identified. To some extent all States and Territories collect this information now. But it is not necessarily recorded in a consistent manner and States and Territories are not necessarily aware of problems occurring elsewhere. Effort is therefore often duplicated.

AUSTRALIAN RAIL SAFETY STANDARD

The Australian rail safety standard is currently being developed under the auspices of Standards Australia. A Standards Australia technical committee which has been established to prepare the new railway safety management standards has representation, both Government and private, from the Australian rail industry in general. South Australia is represented by TransAdelaide.

The IGA requires—and the Bill provides—the parties to use this standard as a basis for accreditation and mutual recognition of accreditation of railway owners and operators.

The head standard (AS 4292.1) has been completed and was published in June 1995. Good progress is being made on the remaining procedural standards which support the head standard in order to have them completed by mid 1996.

ADMINISTRATING AUTHORITY

The Bill provides that in South Australia the administrating authority in respect to rail safety will be a person or body appointed by the Minister. I anticipate that the CEO of the Department of Transport will be so appointed with authority to delegate responsibilities to a small unit comprising current Government employees with experience in rail safety issues.

In summary, the consistent regulation of rail safety across Australia should be recognised as a key element in the drive to generate efficiencies in the rail sector, to promote deregulation and competition, to facilitate commercial objectives and to reduce costs.

I commend the Bill to members and I seek leave to insert the explanation of the clauses in *Hansard* without my reading it.

Leave granted.

PART 1
PRELIMINARY

Clause 1: Short title

This clause provides for the short title of the measure, being the *Rail Safety Act 1996*.

Clause 2: Commencement

The measure will come into operation by proclamation.

Clause 3: Interpretation

This clause sets out the definitions required for the purpose of the measure.

Clause 4: Application of Act

The Act will apply in respect of railways with a track gauge equal to or greater than 600 millimetres, and to any other system of a prescribed kind. However, the Act will not apply to mine railways, slipways, crane-type runways or railways excluded from the operation of the Act by regulation. The Minister will also be able to confer exemptions from the operation of the Act by notice in the *Gazette*.

Clause 5: Act binds Crown

The Act will bind the Crown in right of the State and also, so far as the legislative powers of the State extend, in all its other capacities.

PART 2
ACCREDITATION OF OWNERS AND OPERATORS
DIVISION 1—GENERAL PROVISIONS

Clause 6: Requirement for accreditation

The Act establishes an accreditation system for the owners and operations of railways.

Clause 7: Granting accreditation

An application for accreditation will be made to an Administrating Authority appointed by the Minister. An accreditation will be granted if the Administrating Authority is satisfied as to various matters, including that the applicant has the competency and capacity to meet the requirements of the Australian Rail Safety Standard, and other relevant standards, and generally to ensure rail safety, that the applicant has an appropriate safety management plan, that the applicant has adequate financial resources or public liability insurance in case of an accident, and that the applicant has appropriate rights in respect of his or her operations. In addition, if the applicant holds an accreditation from another jurisdiction, the applicant will be taken to have the competency and capacity to comply with the Australian Rail Safety Standard.

Clause 8: Safety standards—compliance specification

An applicant will be required to specify the standards to which his or her activities will operate.

Clause 9: Safety management plans

An applicant for accreditation will be required to submit a safety management plan that identifies significant potential risks, specifies strategies to address those risks, and specifies who will be responsible for the implementation and management of the plan. The plan will be revised on an annual basis.

Clause 10: Administrating Authority may require further information

The Administrating Authority may require the provision of any information needed to determine an application for accreditation, and the verification of information by statutory declaration.

Clause 11: Interim accreditation

The Administrating Authority will be able to grant an applicant interim accreditation in appropriate cases.

Clause 12: Duration of accreditation

An accreditation will, as a general rule, apply indefinitely. The Administrating Authority will also be able to grant temporary accreditation for a period not exceeding 12 months.

Clause 13: Style and particulars of accreditation

An accreditation may be of general or limited operation.

Clause 14: Conditions

An accreditation will be subject to conditions imposed by the Administrating Authority, or imposed by or under the Act.

Clause 15: Private sidings

Special arrangements, under a registration scheme, will apply to private sidings connected to railways or sidings owned by accredited owners.

DIVISION 2—REFUSAL, VARIATION, SUSPENSION OR CANCELLATION OF ACCREDITATION

Clause 16: Refusal of application for accreditation

The Administrating Authority will be required to provide written notice of a decision to refuse an application for accreditation, including reasons.

Clause 17: Variation of accreditation

An accredited person will be able to apply for a variation of an accreditation. In addition, the Administrating Authority will be able to vary an accreditation after giving the accredited person an opportunity to make submissions on the matter. Appropriate notice of a decision will be required.

Clause 18: Suspension or cancellation of accreditation

The Administrating Authority will be able to suspend or cancel an accreditation on various specified grounds after giving the accredited person an opportunity to make submissions on the matter. Appropriate notice of a decision will be required.

Clause 19: Immediate suspension

The Administrating Authority will be able to impose an immediate suspension of an accreditation if it appears that there is an immediate and serious threat to public safety or to property.

DIVISION 3—DISPUTE RESOLUTION

Clause 20: Dispute resolution

A person who is aggrieved of a decision of the Administrating Authority with respect to accreditation will be able to take the matter to conciliation or mediation proceedings, or appeal to the District Court. An appeal will also lie after conciliation or mediation.

DIVISION 4—RELATED MATTERS

Clause 21: Application fee

An application fee will be payable under the accreditation system.

Clause 22: Annual fees

An accredited person, or the owner of a private siding registered under the Act, will be required to pay an annual fee fixed by the Minister. It will be possible to pay a fee by instalments, with the agreement of the Administrating Authority.

Clause 23: Periodical returns

An accredited person will be required to lodge a periodical return containing prescribed information.

Clause 24: Surrender of accreditation

An accredited person will be able to surrender an accreditation.

PART 3

SAFETY STANDARDS AND MEASURES

Clause 25: Compliance with Rail Safety Standards

This clause imposes the requirement on accredited persons to comply with all relevant safety standards, and the safety management plan.

Clause 26: Requirement to maintain safety systems, devices or appliances

An accredited person will be required to maintain all relevant safety systems applicable under the accreditation.

Clause 27: Installation of safety or protective devices

The Administrating Authority will be able to require an accredited person to install safety systems and equipment.

Clause 28: Closing railway crossings

This clause will allow an authorised person to close temporarily, or to regulate temporarily, a railway crossing in an emergency situation.

Clause 29: Power to require works to stop

This clause is intended to prevent unauthorised works near a railway that may threaten the railway's safety or operational integrity.

Clause 30: Railway employees

An accredited person will be required to take all reasonable steps to ensure that railway employees who perform railway safety work have the capacity and skills to perform the work, are sufficiently healthy and fit, and do not have in their blood alcohol at a prescribed level, and are not under the influence of a drug, while at work. It will also be an offence for a railway employee to carry out railway safety work while there is present in his or her blood alcohol at a prescribed level, or while under the influence of a drug.

PART 4

COMPLIANCE INSPECTIONS AND REPORTING

Clause 31: Safety compliance inspections

The Administrating Authority will carry out periodical safety inspections relevant to the safe operation of a railway. The Administrating Authority will also, by notice in writing, be able to direct that safety inspections occur.

Clause 32: Directions to undertake remedial safety work

The Administrating Authority will be able to direct an accredited person to carry out remedial safety work and, in the event of default, arrange for remedial safety work to be carried out.

Clause 33: Directions to provide program of remedial safety work

The Administrating Authority may require an accredited person to provide a program for any necessary remedial safety work.

Clause 34: Declarations as to variation of accreditation

An accredited person will be required to reassess the appropriateness of his or her accreditation on an annual basis.

Clause 35: Safety reports

An accredited person will be required to submit an annual safety report on his or her operations under the accreditation. The Administrating Authority will also be able to require the submission of a safety report at any other time.

Clause 36: Supply of information

The Administrating Authority will have a general power to require the provision of information from time to time.

Clause 37: Notifiable occurrences

An accredited person will be required to report to the Administrating Authority if any occurrence of a kind specified in schedule 1 (or by regulation) happens on or in relation to the relevant railway. The Administrating Authority will also be able to require an accredited person to report dangerous incidents.

Clause 38: Authority may require report from owner or operator
Clause 39: Request for certain details

The Administrating Authority may require various reports from an accredited person after due inquiry.

Clause 40: Offence

It will be an offence to contravene or fail to comply with a requirement or direction imposed or given under certain sections.

PART 5

INQUIRIES AND INSPECTIONS

DIVISION 1—INQUIRIES

Clause 41: Appointment of investigator

This provision allows for the appointment of an independent investigator to inquire into, and to report on, an accident or incident.

Clause 42: Procedures and powers of an investigator

An investigator will have various powers of inquiry. An inquiry will be dealt with expeditiously and involve the minimum of formality and technicality.

Clause 43: Report

A copy of a report of an investigator must be furnished to the Minister.

Clause 44: Inquiry may continue despite other proceedings

It will be possible to conduct an inquiry despite other proceedings, unless an appropriate court or tribunal orders otherwise.

DIVISION 2—INSPECTIONS, ETC.

Clause 45: Appointment of authorised officers

The Minister will be able to appoint authorised officers for the purposes of the Act.

Clause 46: Inspection powers

This clause sets out the powers of an authorised officer.

Clause 47: Provisions relating to seizure

This clause sets out a scheme relevant to the seizure of items by authorised officers.

Clause 48: Offence to hinder, etc., authorised officers

This clause sets out various offences relevant to the activities of authorised officers.

Clause 49: Self-incrimination, etc.

This is a provision relevant to self-incrimination.

Clause 50: Offences by authorised officers, etc.

It will be an offence for an authorised officer to use offensive language or to use unlawful force against a person.

PART 6

MISCELLANEOUS

DIVISION 1—ADMINISTRATION

Clause 51: Ministerial control

The Administrating Authority will be under the control and direction of the Minister, except with respect to a decision to award (or not to award) an accreditation, or so as to order the suppression of information.

Clause 52: Delegations

The Administrating Authority will be able to delegate a function or power under the Act.

Clause 53: Annual report

The Administrating Authority will prepare an annual report to the Minister on the administration and operation of the Act and copies will be tabled in Parliament.

Clause 54: Recovery of cost of entry and inspection

The Administrating Authority will be able to recover various costs associated with inspections under the Act.

Clause 55: Exclusion from liability

This clause protects various authorities from liability in the honest exercise of functions and powers under the Act.

DIVISION 2—GENERAL OFFENCES AND PROCEEDINGS

Clause 56: False information

It will be an offence to provide false or misleading information with respect to an application for accreditation.

Clause 57: Tampering with railway equipment

It will be an offence to tamper with railway equipment.

Clause 58: Offender to state name and address

A person suspected of an offence against the Act may be required to provide certain information to a member of the police force or an authorised officer.

Clause 59: Continuing offences

This is a default-penalty provision for on-going offences.

Clause 60: General provision relating to offences

This clause provides for the liability of directors and managers of bodies corporate in criminal matters, and for the time within which prosecutions for offences against the Act should be commenced.

DIVISION 3—OTHER MATTERS

Clause 61: Liability of person for acts or omissions of employees or agents

An accredited person will be liable for the acts and omissions of employees and agents.

Clause 62: Evidentiary provision

This is a standard evidentiary provision.

Clause 63: Regulations

The Governor will be able to make regulations for the purposes of the Act.

Schedule 1

This schedule sets out the incidents that are notifiable occurrences under the Act.

Schedule 2

This schedule makes specific provision for matters in respect of which regulations can be made.

Schedule 3

This schedule addresses transitional issues for current owners and operators of railways.

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

MOTOR VEHICLES (MISCELLANEOUS) AMENDMENT ACT

The Hon. DIANA LAIDLAW (Minister for Transport) obtained leave and introduced a Bill for an Act to amend the Motor Vehicles Act 1959. Read a first time.

The Hon. DIANA LAIDLAW: I move:

That this Bill be now read a second time.

This Bill deals with four distinct matters: the second phase of the Driver Intervention Program, the provision of medical certificates by persons claiming against compulsory third party insurance, the requirement for vehicle owners and driver's licence holders to notify a change of address and the waiting time between tests where a person fails the road law theory test.

The Driver Intervention Program was introduced in August 1994 as a means of confronting novice drivers with the reality and consequences of motor vehicle crashes. Due to the large number of novice drivers and the need to develop, implement and evaluate the program in a controlled environment, it was decided to introduce the program in phases. The first phase, the pilot phase, is still being conducted. During the pilot phase, the program has been developed and tested and course facilitators have been trained and given practical experience in delivering the program.

This phase was introduced under existing provisions of the Motor Vehicles Act which require a court to order a person in breach of the zero alcohol condition of a learner's permit or probationary driver's licence to attend a lecture.

This Bill seeks to extend the Driver Intervention Program to the second phase and proposes an amendment to the Motor Vehicles Act to empower the Registrar of Motor Vehicles, rather than a court, to compel a learner's permit or probationary driver's licence holder to attend a lecture.

Under this proposal, attendance at the lecture will be extended to those learner's permit and probationary driver's licence holders who are liable to disqualification under section 81b of the Motor Vehicles Act. This section provides for the disqualification of the holder of a learner's permit or probationary driver's licence, where he or she has breached probationary conditions of the permit or licence. At current estimates, this will result in some 1 500 drivers attending the program annually.

The Bill proposes a Division 11 fine as the penalty for failing to comply with a requirement of the Registrar to attend a lecture. A fee of $25 per person will be prescribed by the regulations to recover the costs of running the second phase.

Attendance at the program has so far been limited to persons residing in the metropolitan area. The second phase of the program will continue to be limited to those persons. However, the program may ultimately be extended to all novice drivers in both metropolitan and country areas.

The Motor Vehicles Act requires a person making a claim against compulsory third party insurance to provide the insurer with copies of all medical reports within 21 days. However, some medical practitioners may include in their reports material that is highly prejudicial to the plaintiff. For example, the plaintiff may have disclosed figures that have been put to the plaintiff by legal advisers in the course of negotiations to settle the claim and the medical practitioner has made some comment as to the wisdom of accepting such figures.

This requirement is not consistent with the provisions of Supreme Court rule 38.01 (5). The Chief Justice of the Supreme Court has requested an amendment to the Motor Vehicles Act so that the provision is consistent with this rule. The proposed amendment to the Act will provide plaintiffs with protection from the disclosure of medical reports to the insurer that may be unfairly prejudicial to the plaintiff.

The Motor Vehicles Act requires vehicle owners and driver's licence holders to notify a change of address in writing. This Bill proposes an amendment to section 136 so that the means by which notification may be given can be prescribed by regulation. This will improve the service to clients by enabling a notification of change of address to be provided in writing, by telephone, by facsimile or by some electronic means that the Registrar of Motor Vehicles may establish for that purpose.

The Motor Vehicles Act provides that a person who fails a written road law theory test is not entitled to re-sit the test until at least two clear days have elapsed since the last sitting. Country members of the Legislative Council would be aware that this current provision in the Motor Vehicles Act has caused some difficulty, particularly in country areas. This provision was introduced so that a person could not pass the test by a process of elimination. By re-sitting the test again and again, it would not be a test of their knowledge but a test of their memory. This argument is no longer valid as there is a series of different question papers. The Bill proposes the removal of this provision, which will benefit those persons who have previously been required to travel long distances to return to a testing site to re-sit the test.

The Bill also proposes a consequential amendment to the Motor Vehicles Act arising from the recent Motor Vehicles (Heavy Vehicles Registration Charges) Amendment Act 1995. As a result of those amendments, there is an inconsis-

tency between sections 24 and 26, which relate to the period of registration. The proposed amendment to section 26 will make it consistent with section 24. I commend the Bill to the House and seek leave to have the detailed explanation of clauses inserted in *Hansard* without my reading them.

Leave granted.

Clause 1: Short title

Clause 2: Commencement

These clauses are formal.

Clause 3: Amendment of s. 26—Period of registration

Section 26 provides that a renewal of registration of a motor vehicle takes effect on the day after the expiry of the previous registration if the application for renewal is made before expiry or within 30 days after expiry. This clause provides for a renewal of registration of a *heavy vehicle* to be backdated to the day after the expiry of the previous registration if the application is made within 90 days after expiry.

Clause 4: Amendment of s. 75a—Learner's permit

This clause removes the provision requiring a court to order the holder of a learner's permit to attend a lecture (as to motor vehicle accidents and their causes and consequences) if the holder is found guilty of contravening the probationary condition prohibiting the holder from driving a motor vehicle, or attempting to put a motor vehicle into motion, while there is in the holder's blood any concentration of alcohol.

Clause 5: Amendment of s. 79—Examination of applicant for driver's licence or learner's permit

This clause removes the provision that prevents a person who sits for and fails to pass an examination in the road rules applying to motor vehicle drivers from sitting for the examination again unless two clear days have elapsed since the last sitting.

Clause 6: Amendment of s. 81a—Probationary licences

This clause removes the provision requiring a court to order the holder of a probationary licence to attend a lecture (as to motor vehicle accidents and their causes and consequences) if the licensee is found guilty of contravening the probationary condition prohibiting the licensee from driving a motor vehicle, or attempting to put a motor vehicle into motion, while there is in the licensee's blood any concentration of alcohol.

Clause 7: Amendment of s. 81b—Consequences of contravention of probationary conditions or incurring four or more demerit points

Section 81b provides that if a person who holds a learner's permit or probationary licence—

- commits an offence of contravening a probationary condition; or
- commits an offence in respect of which one or more demerit points are recorded against the person, and in consequence the total number of such points recorded against the person in respect of offences committed while the person held such a permit or licence equals or exceeds four points,

the Registrar is required to give the person a notice informing them that they are disqualified from holding or obtaining a permit or licence for 6 months and that their existing permit or licence (if any), is cancelled. This clause empowers the Registrar to require the person to attend a lecture of the kind referred to above and provides for an attendance fee to be prescribed by regulation.

Clause 8: Amendment of s. 127—Medical examination of claimants

Section 127 requires a person who makes a claim for personal injury caused by or arising out of the use of a motor vehicle to submit themself to a medical examination by a medical practitioner nominated by the insurer and to send a copy of the medical practitioner's report to the insurer. If the claimant fails to send a copy of the report to the insurer the court that deals with the claim can award costs against the claimant and take that failure into account in assessing an award of compensation in favour of the claimant.

This clause ensures that such costs will not be awarded against the claimant, and that his or her compensation award will not be affected, if the claimant has dealt with the medical report and taken other action in accordance with any rules of the court under which a party to proceedings may be relieved from the obligation to disclose to another party a medical report the disclosure of which would unfairly prejudice the party's case.

Clause 9: Amendment of s. 136—Duty to notify change of address

Section 136 requires a person to notify the Registrar in writing of change of residence or principal place of business. This clause allows a change to be notified in a manner prescribed by the regulations. It also empowers the Registrar to require a person giving notice to provide evidence of the change to the Registrar's satisfaction.

Clause 10: Amendment of s. 141—Evidence by certificate of Registrar

This clause facilitates proof in legal proceedings of a person's failure—

- to notify a change of residence or principal place of business in a prescribed manner;
- to attend a lecture in accordance with a requirement of the Registrar under section 81b,

by way of a certificate given by the Registrar.

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

RACING (TAB) AMENDMENT BILL

Second reading.

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 purpose of this Bill is to restructure the Totalizator Agency Board in such a way as to achieve independent representation and in doing so reduce the potential of vested interest difficulties which may occur with an industry nominated Board.

The new Board structure will enable the appointment of members with appropriate skills and expertise for the running of a multi-million dollar gambling business. People with a range of marketing, financial, legal, commercial and technical skills will combine with people with relevant industry knowledge and experience.

This Bill also seeks the power to remove a member of the TAB. The following Acts include a similar provision:

Gaming Supervisory Authority Act 1995 (section 6(2)*(d)*)
Electricity Corporations Act 1994 (section 15(2) and (3))
South Australian Water Corporation Act 1994 (section 13(2) and (3))
Land Acquisition Act 1969 (section 26b(3))
State Bank of South Australia Act 1983 (section 9(3)).

It is proposed to increase the number of members of the TAB to seven to give the Government the opportunity to broaden the range of skills and experience on the Board.

It is the intention of Government to consult widely with both the business community and the racing industry prior to the selection of members to ensure that the most appropriate representatives are appointed.

This Bill also amends the obsolete term chairman and replaces it with the current term of presiding officer.

To enable this Bill to have immediate effect a provision has been included which affects the vacation of the offices of the current members of the TAB on the commencement of the new Act.

Clauses 1 and 2:

These clauses are formal.

Clause 3: Amendment of s. 42—Interpretation

This clause makes a consequential amendment.

Clause 4: Substitution of s. 44

This clause replaces section 44 of the principal Act which provides for the membership of the Board.

Clause 5: Amendment of s. 45—Terms and conditions of office

This clause amends section 45 of the principal Act. Paragraphs *(a), (b) (c)* and *(d)* make consequential changes. Paragraph *(e)* replaces subsection (5) with a provision that enables the Governor to remove a member of the Board on a ground that he or she considers sufficient.

Clause 6: Amendment of s. 47—Quorum, etc.

This clause makes consequential changes.

Clause 7: Amendment of Schedule 3

This clause amends schedule 3 of the principal Act to provide that existing members of the Board will vacate their offices on the commencement of the amending Act.

The Hon. M.J. ELLIOTT: I rise to support the second reading of this Bill and in so doing raise concern that this piece of legislation was introduced last Thursday yet the Government wants it through by tomorrow, a problem that has been created in large part because it decided to cancel the sitting that was due in two weeks and perhaps also because

it did not think clearly enough about the fact that the current board's term was due to expire and that it should have planned a little earlier. That aside, the Bill in itself is not a complex one and so I am prepared to handle it in that time frame. Having said that, a couple of issues still deserve to be addressed and I will be moving two amendments to the Bill.

There have been arguments in this place over all the years that I have been here about which people are suitable to be on which boards, what qualifications they should have, etc. There has been a trend in this place to have fewer representatives of interested bodies placed on boards and an increasing trend towards putting on so-called experts, particularly business experts. I must indicate that there are times when that is appropriate and times when it is not. Perhaps in this case it is appropriate that representatives of each of the three codes not be on the board. The indications I have so far are that, quite frequently, representatives of those codes do not have expertise relevant to what is really simply a business enterprise. Most of the decisions are about how to run a gambling agency and not about how to run harness racing or greyhound racing, all the gallopers.

Certainly, its decisions can have some impact on them but the prime business of the TAB is to run a gambling agency. The prime goal of that agency is to maximise the profitability and, with a maximised profitability, an improved return to the three codes. There is no doubt that having representatives of the codes there brings one thing: they want to see the TAB profitable and they bring that enthusiasm to the board, although not necessarily the expertise to guarantee that it does occur. It is perhaps worth making the point, having raised the question as to what the role of the TAB is, that the Act does not anywhere actually spell out the objectives of the TAB, and that is a deficiency, I suggest to the Minister, that really should be addressed.

In fact, I think the time is long overdue for us to look at all our legislation in relation to gambling and to clearly lay out objectives for those various agencies. I will go a step further and suggest that perhaps all gambling agencies should be operating under a single peak body and, by so doing, that we spell out the clear objectives of those agencies. It seems to me, at least, that perhaps one of those objectives is not to encourage more and more people to gamble so much as to regulate the gambling activity within South Australia. But that is a more lengthy debate that perhaps I should enter into at another time.

I make the point that there are not any clear objectives spelled out for the TAB, and perhaps putting objectives into the Act would give this new board a very clear sense of direction. Perhaps it would mean that the Minister would not have to use his or her powers too often to intervene in its affairs. We had legislation before us last year seeking to give the Minister the power to dismiss members of the board at will. I rejected that then and I will be rejecting that move again. It is noteworthy that the Government has other legislation in Parliament at this stage. One example is the National Parks Bill, where it is proposing setting up a council, and the same sorts of terms of office are there as we have seen in legislation for quite some time. People are removed for failure to carry out their duties for reasons of dishonesty and whatever else.

The Hon. A.J. Redford interjecting:

The Hon. M.J. ELLIOTT: Perhaps that is true in the case of the National Parks Bill but, unfortunately, that reality does not seem to have found its way into this Bill at this stage, although I will be seeking to amend it to return that reality. The point that was missing last time was that the Minister was not admitting that he had as much power as he did. The fact is that he always had the power to intervene in the TAB's affairs and he did not, and his failure to intervene when things went wrong under his definition, perhaps under the definition of the *Advertiser* and a few others, meant that he had to blame someone else. So, Bill Cousins in particular and the TAB board generally became the scapegoats for the political difficulties of the Minister.

The Hon. T.G. Roberts: They brought in the Bill Bill.

The Hon. M.J. ELLIOTT: They brought in the get the Bill Bill. That is just a little too easy by half. The Act gives the Minister the power to direct the board. If the board does not follow his directions then I would have thought that the normal procedures that are available for sacking board members under the exiting Act would be sufficient. But to simply give the Minister—or should I say the Governor, for which one reads the Government—the power to dismiss people at will, which is what the Government is proposing, is unacceptable.

Who, other than a political lackey, would want to accept a position on a board knowing that they can be removed at any stage with the stroke of a pen? If you try to get together a board of people who will seek to do a professional job, how will they do it if they know that not only are they subject to the general direction of the Minister but the Minister is sitting there just waiting to throw them out? It makes having a board quite a pointless exercise. It is common, when you employ people, to give them the confidence of having gained that appointment, but I do not believe that this Bill as it stands does so. As a consequence, I will be opposing clause 5(e), to which I have already tabled amendments. Under my proposed amendment the present methods of dismissal will remain.

The only matter I am seeking to amend is gender balance in relation to appointments to the board. I had not been aware that there was an amendment in the Lower House when I tabled my amendment, which provides that one will be a man and one will be a woman. My amendment provides that at least two will be men and two will be women, out of a total board of seven. On previous occasions I have said in this place that I look forward to the day when such amendments are unnecessary.

The reality is that, without these sorts of amendments in legislation, there will frequently be gross gender imbalance. For the time being at least, it seems that this sort of amendment is necessary. I hope that, over the next five or so years, things will change sufficiently so that it will be taken for granted that gender balance will occur as a matter of course, not in a conscious sense but simply because the best person for the job will be appointed, and that could equally be a man or woman.

This is a problem that we do not have in our Party; we do not have affirmative action in our Party. We have no rules which enforce it, yet our members in Parliaments around Australia is almost exactly half men and women. In fact, at present there is one more female member than male members in the various Parliaments. But that does not happen by way of policy; that happens by way of attitude.

I have a suggestion which the Government might care to look at at a later time. Whilst I resist the notion of a Government just wanting to remove people at will, there might be a case to be made—and it is something I will look at further—when a new Government assumes office, as to whether it feels that the composition of a board is politically stacked and wishes to rectify it, but that would be immediate-

ly upon assuming office. That is a notion that is worth further examination, but I would not like to do it on the run and certainly would not want to do it in the next couple of days; and it is quite a different proposition than just removing a person at any stage in a totally *ad hoc* manner. With a few reservations and, as a consequence of a couple of amendments, I support the Bill.

The Hon. A.J. REDFORD: I support the Bill and congratulate the Government on introducing it. I will touch generally on the racing industry and the TAB in the course of my contribution to this debate, but I would say that the general thrust of this Bill is good. As I have said in previous debates, the consequence of representative boards, where you have a representative from this group and a representative from that group, essentially undermines the overall objective of a board. In fact, the TAB board is a shining example of that occurring.

For those who are not familiar with how the board is currently structured, it is comprised substantially of representatives from the various racing codes, and those representatives usually are the presidents of the heads of those codes—for example, with racing, the current SAJC chairman is its representative on the TAB board—and the necessary consequence of that is that you get a poor mix. It certainly cuts across some of the stated objectives of the previous speaker, the Hon. Michael Elliott. The Hon. Michael Elliott—and I agree with the thrust of what he is attempting to achieve—has moved an amendment that there be at least two women and two men on that board of seven.

If you have a representative board in which those representatives are elected then, essentially, you cannot achieve that result if the constituent bodies decide that they will elect all men or all women. Another problem—and it is quite clear with the TAB board—is that you can get a poor mix in terms of qualifications. As I understand it (and I stand to be corrected if I am wrong), there are at least three lawyers on the TAB board. I am a lawyer and I have a great deal of confidence in the skill of lawyers, but I do not think it is a desired mix to say that more than half of the board comprise lawyers, in essentially what is a gambling institution.

Certainly, if you are hand-picking a board you would not come up with that mix, but it just so happens that the constituent bodies who are electing what they perceive to be their best representatives happen to choose a lawyer. That may be right from their perspective, but when you look at the overall mix that is on the board you achieve a lopsided balance. So, in that regard, this amendment is well overdue. I have not heard any contribution from the Opposition, but I hope that it will embrace this concept. It is yet another example of where, if you overly embrace representative boards, you get a skewed result.

In fact, the result of the TAB since it was first exposed to competition has been exceedingly poor. Until the casino came into existence some 10 years ago, and more recently poker machines, the TAB has been subjected to very little competition. Indeed, its only substantive competition has been from another wholly owned Government operation, the Lotteries and Gaming Corporation. We can now see the quality of the management of the TAB in its true light, now that it has been properly exposed to the whims of competition. It is pleasing to see that the Government, not before time, has reacted to that.

I will make a few comments about racing. I made a contribution about the racing industry last October when I explained where I saw the future of racing going. Essentially, the role of the TAB and racing is one of partnership.

There is no doubt that racing has been in demise over the past few years. I remember that in the halcyon days of racing in South Australia some 15 years ago it was touted to be the second or third biggest industry in this State. We no longer hear those sorts of claims from that industry. We have seen a dramatic decline in stake money, particularly when one compares the amount of stake money available to owners of horses in South Australia with that available to owners interstate. We have seen a demise in the status of the horse racing industry in this State. We have seen a demise in the quality and number of racehorses that we have and in the number of people who attend race meetings on Saturday or during the week at country and metropolitan courses. To a large extent we see enormous inaction on the part of various stakeholders in that industry. In fact, it is a divided industry.

As I said last October, the industry needs new ideas. It needs an improvement in country racing and a better effort in marketing. I will probably attract some criticism for saying this but, given that the principal non-metropolitan race clubs in this State are Gawler, Balaklava and Strathalbyn and the rest of the country race courses are ignored, is it any wonder that there has been an extraordinary decline in country racing? I would suggest that over many years until recently that was the nursery of racing in this State.

The Hon. T.G. Roberts: What happened to the Kalangadoo races?

The Hon. A.J. REDFORD: They no longer exist. As the honourable member would know, Millicent had a very proud racing club until about 15 years ago, when it disappeared. In the South-East, the Mount Gambier club runs a few mid-week meetings and has a very strong gold cup meeting; there is Naracoorte racing; and there is Penola, which has very few meetings and, when it does, they are in the middle of the week when everyone is busy working. We can compare that with a few years ago, when we had seven or eight racing clubs. So, there has been a general decline in the country and specifically in the South-East. The decline in country racing has been marginally ahead of the general decline in racing in this State. The industry leaders should look at that and perhaps come to the conclusion that, if country racing had not been ignored and shunted to one side in a mad bid to centralise the administration of racing and following a so-called 'big is beautiful' regime, we would not have seen such an enormous decline in racing.

Only a few years ago Adelaide racing was third behind Melbourne and Sydney, and quite clearly we are now well behind Perth and Brisbane. If one really analysed it, we may well be behind some of the major provincial racing clubs in Victoria and New South Wales. That is a tragedy and is an indication of the inaction and lack of leadership in that industry over the past 15 years. When we had Colin Hayes, Bart Cummings and some of the best jockeys in this State—

An honourable member interjecting:

The Hon. A.J. REDFORD: The honourable member interjects. I have not mentioned the ALP at all and I do not intend to mention it. There has been a general decline which, quite frankly, is an indication of the degree of inaction on the part of various administrators, whether at the political, racing or business level in this State. There are no Bart Cummingses left in this State. The Hayes connections have established an important racing establishment in Melbourne, and a large number of rumours have been flying around about the future of Lindsay Park. Lindsay Park has been an icon in terms of

tourism and racing in this State. It is pleasing to see that this Government is now coming to grips with the enormous decline that has occurred in the racing industry, and it is to be hoped that it will provide a leadership role in the development of racing that, quite frankly, has not been shown by the industry itself.

As a Liberal politician, I have to say that it is disappointing that Government has to make a stand on how racing is to be conducted in the future. However, I would say that in the restructure of the racing industry it is very important that we adopt an inclusive approach. I know it is tempting to say to those who have run the racing industry in the past seven or eight years, 'You are no good; you have been part of that general decline, so we will make a decision and you will just put up with it.' I hope that the Government does not go down that path. In other words, I hope the Government adopts an inclusive approach. I hope the Government will look at some of the leaders in the racing industry and adopt some of their principles.

I know that the Mount Gambier racing club has adopted a strong marketing program to attract people to racing in Mount Gambier. It has done that in the face of quite spirited competition from over the border. Those of us who are interested in racing know of some of the incentives that have been given to horse owners and trainers in Victoria that are not available in this State. The money is not available to those people in this State unless we get our act into gear. I know that a substantial number of horse trainers and owners have made that short drive from the South-East of South Australia over the border to secure those advantages, and I know that that has accelerated the decline of racing in this State. I also know that the Port Lincoln racing club has adopted a very strong and proactive marketing approach. Indeed, the racing club sees itself as part of the future of the Port Lincoln community and part of the tourism promotion in that community. Certainly the Port Lincoln Racing Club deserves recognition for the strong approach it has taken. We have all received invitations to attend the various race meetings on Kangaroo Island. We all know that Wolf Blass—

The Hon. T.G. Cameron interjecting:

The Hon. A.J. REDFORD: The Hon. Terry Cameron shakes his head. Perhaps the invitations came prior to his election but we all do receive invitations. I have seen his colleagues at meetings. Members would know that Wolf Blass has played a very strong role in the marketing promotion of Kangaroo Island race meetings. We all know that Broken Hill has promoted its major race meeting. We all know that in Kangaroo Island, Broken Hill, Mount Gambier and Port Lincoln racing is an integral part of the social and tourist fabric of those communities.

Members interjecting:

The Hon. A.J. REDFORD: Yes, and Port Augusta. I apologise to the residents of Port Augusta. I might suggest to the Minister and those involved in the future of the racing industry that perhaps we need to look beyond Balaklava, Gawler and Strathalbyn in determining who has mid-week meetings and TAB meetings, with the related tourist benefits. However, the way we are going, there will be no racing in South Australia. After all, it is very expensive to put on a race meeting, to have the facilities, the grandstands, the bookies, to open the bar and provide a facility. All we need to do is make sure the people go to the TAB outlets or hotels and beam in racing via satellite from another State. At the end of the day, our State would be very much the poorer for it.

Over the past 20 years, we have made some extraordinarily stupid decisions. I must admit that I say that with the benefit of hindsight. I do not seek to point the finger at anyone, whether it be Government or elsewhere. In a city the size of Adelaide, to have Globe Derby in one direction, well out of the centre and focus of the city, and to have Angle Park in a slightly different direction, well out of the centre and focus of the city, and an enormous infrastructure with both those places, with drink driving rules—and even members opposite would agree that one needs to be very careful about driving home if one travels out to those places and has a drink at the bar—it is not consumer friendly. Certainly a $35 taxi fare is not consumer friendly.

If one looks at Wayville, where trots used to be conducted, albeit the track was entirely unsuitable, if that sort of money had been spent on the development of the infrastructure there, surely we would have a facility with harness racing and greyhound racing that would be the envy—

The Hon. T.G. Cameron: I used to go, but I won't go out there.

The Hon. A.J. REDFORD: The Hon. Terry Cameron says, 'I used to go but I will not go out there.' I am entirely in agreement with him; I am in exactly the same boat. I had the opportunity to speak to a couple of people involved in the harness racing industry. If one looks at the balance sheets and the trading and profit and loss sheets in terms of harness racing, they are in deep financial difficulty. If it continues, we will no longer have a harness racing industry in South Australia.

The Hon. T.G. Cameron: Do we need three metropolitan race tracks?

The Hon. A.J. REDFORD: Certainly the time has come where we may have to give up an icon. I know there have been some very serious discussions within the membership of the SAJC as to whether we need three race tracks, particularly when one race track, Victoria Park, currently owned by the racing club, is in substantial need of improvements in terms of its infrastructure, yet they cannot own that infrastructure. The counter-balance of that is that Victoria Park seems to have the knack of drawing the biggest crowds. It is not an easy decision. A very difficult decision confronts our racing administrators.

With regard to harness racing, there is a huge problem with stake money which has been reduced because of budget problems. There has been a problem with mid-week race meetings at night. They are normally held in Kapunda, Port Pirie and Gawler. There is huge pressure being brought to bear that those country regions lose their mid-week racing, and that mid-week harness racing occur here in Adelaide. Whether or not that is a good thing, whether or not that is appropriate for the future of the harness industry, I am certainly not professing to be qualified to say, but that is a very difficult issue.

There are difficulties in terms of what will occur with pay TV and what effect that might have on the future of racing, and whether or not Sky TV will continue to provide the same input to the racing industry and, indeed, whether it should provide that input into the racing industry. So, the harness racing and greyhound industries find themselves in a very difficult position. One only has to look at the sorts of dividends paid on greyhounds on the TAB to see just what a poor position it is in, particularly when one compares the interstate dividends that are put on Sky channel. When one goes into a betting establishment, the local dividend is about half that and twice the risk, and one can bet on the interstate

TAB and get double the dividend with half the risk. Mark my words, Tabcorp, when it gets itself organised in Victoria, will not sit back and permit the plum market of South Australia to be ignored and allow our local TAB to operate unimpeded. The TAB, the racing, harness racing and greyhound industries have enormous challenges before them.

I congratulate the Government on this Bill which I suggest and suspect is the first of many such Bills. As members of Parliament we have a responsibility to scrutinise this legislation carefully and become much more informed about the racing industry in general so that we can make a positive and constructive contribution to the future of racing. Unless we do that within the next 18 months to two or three years we will not have racing in this State at all. One needs only to visit some of the old timers in the country and they will explain what a loss racing is to a small country town in terms of its social life. Yet if we in this city of in excess of one million people do nothing, we run the same risk of not having a racing industry in this State. I urge members to watch and inform themselves about this industry and to provide an informed and constructive debate on any future restructuring. I commend the Bill to the Council.

The Hon. R.R. ROBERTS: The Opposition supports the legislation. We do not want to go into the Committee stage just yet because, as members know, the Hon. Mr Elliott has lodged some amendments. Whilst the Labor Caucus has made some decisions in respect of this legislation, I am required to consult the appropriate shadow Minister and come back.

Following the contribution by the Hon. Angus Redford, I point out that I have some experience in the racing industry. Port Pirie has a race course, a trotting track and a dog track on the one facility with the utilisation of the general amenities for the public. I assure the Hon. Angus Redford that that will not necessarily solve the problems of racing in South Australia, because three distinct groups of people follow trotting, racing and greyhounds. At a trotting meeting one will see only a few familiar faces, and at the dogs there will be a different crowd. What is being proposed here is another attempt to tinker around the edges of a problem that has been present for a long time.

I listened carefully to the contribution by the Hon. Mr Redford, and frankly I have heard it before over the past 20 years of my involvement in racing. I was the Vice President of the Port Pirie Trotting and Racing Club, so I have some experience of the administration of trotting and racing. Trotting and racing in South Australia have been deteriorating for some time. On almost every occasion when a crisis occurs people come up with simple solutions to what are often complex problems.

When there have been problems in trotting in South Australia, for instance, there have always been moves to rationalise country racing. When country trotting was going bad, the metropolitan clubs, which had dominance on the boards, would rationalise country trotting to make it more efficient. Then, when there was a problem with metropolitan trotting, they would use the same solution and rationalise country trotting again. This has gone on for some time.

I do not believe that this Bill or a series of other Bills will fix the problems. In the past couple of weeks I have heard people put forward solutions. One genius put forward the idea that we should put trotting and greyhounds into one group and the SAJC in a privileged position with its three metropolitan tracks in another group. Quite clearly, whilst the arrangement with the TAB operates in South Australia with a distribution of profits, we will always have the SAJC collecting approximately 75 per cent of the profits, trotting collecting approximately 15 per cent of the profits and dogs collecting the rest. It is the system which is encouraging inefficiency in the racing industry. Quite frankly, they do not have to do anything because 90 per cent of the income generated from racing is from country racing interstate, so there is no outlay.

We need to look at the whole industry again. Essentially, we have three small kingdoms and everyone is defending their own patch. The metropolitan clubs do have a role to play. We do not need to change the board, but there needs to be a Trotting Control Board, a harness racing administration and a greyhound administration. However, we have three competing interests with a fixed share of profits, and that does not encourage a great deal of innovation.

The Hon. Mr Redford mentioned innovation and marketing in his contribution. At my local track in Port Pirie, where a very successful country trotting operation was taking place (and then we received Sky channel), it was decided by metropolitan decree that there would not be any races at Port Pirie on a Friday night. Instead, the races would be held at Globe Derby Park. This was not a metropolitan meeting; it was a country meeting. They put trotting back to a Tuesday night in Port Pirie. Any member who knows anything about industrial towns where people work shift work and the kids have to go to school the next day will immediately recognise that the crowd has gone.

However, we went further than that: we opened up an auditorium at Morphettville so that people did not have to drive out to Globe Derby Park to go to the trots; rather, they could stay at Morphettville, and we would not get the crowd out at Globe Derby Park, either.

What has been happening has been a hotchpotch of bandaid remedies that have not worked and will not work. For the past 10 years in this State I have advocated that there is only way to fix the racing industry, and that is to take away the power and the privilege of self-interest groups. What we need in this State to handle the racing industry is a racing commission consisting of professional people who have credentials. Essentially, the racing commission will do two things. First, there would need to be a distribution of the profits of the industry to provide the basic funding; and, secondly, there needs to be another pool of money for people who are entrepreneurial. For example, people who go out and promote and work hard such as the people in country trotting, and indeed at some of the country race tracks which were mentioned again in the contribution of the Hon. Angus Redford. Those people need to be recognised for doing something worth while.

This tinkering around the edges will not solve the problem, and nor will putting the two poorest industries together solve the problem. In my view, one of the problems that we have had is that the SAJC has held a privileged position in the State. It has high political connections. Some of its balance sheets have been appalling. It has lost money hand over fist and, every time that crisis meetings are held, it starts talking about rationalising tracks. However, as soon as someone mentions, 'Let us do away with the metropolitan tracks,' that is a sure fire sign that they will not talk about that any more. It has to occur. My personal view is that, if this State cannot support a metropolitan greyhound facility, a metropolitan trotting facility, and one metropolitan racing facility, we are in awful trouble.

I believe that the industry has an important role to play in the administration of trotting, horse racing and greyhound racing. Returning to the specifics of this Bill, it has been pointed out that we do need expertise on the board, and our Caucus has decided to accept the recommendations. Membership of the board requires qualifications and experience in financial management and marketing, experience as a legal practitioner, or experience in carrying on a business, or expertise in the horse racing, harness racing or greyhound racing industry. The Bill also requires that at least one of the members of the board must be a man and at least one must be a woman.

My personal preference would be that each code nominates a person with those qualifications. It is fair enough for the major organiser, and not necessarily the Chairman, as it has always been, to appoint people who meet these criteria. However, that is not what the legislation provides, and that is not what is being supported. I believe it is a fair enough principle, but I indicate to the Minister that we will be supporting the legislation as is, with the one qualification that I require some time to consider the amendments moved by the Hon. Mr Elliott. I hope that one of my colleagues will take the further adjournment of this Bill and that we will revisit it tomorrow. However, I indicate general support for the Bill.

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

FISHERIES (GULF ST VINCENT PRAWN FISHERY RATIONALIZATION) (LICENCE TRANSFER) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 13 February. Page 852.)

The Hon. R.R. ROBERTS: I was awaiting further information, but the Hon. Mr Elliott has indicated that he wishes to speak to this Bill today, so I will conclude my remarks by placing on record an outline of the fishing strategy that was agreed to in November 1995. I will read that outline and some other information into *Hansard*, and make the rest of my points in Committee.

Members will recall that, in my first contribution, I was critical of the management of the fishery over the years, and the consequences of that misguided management. I also pointed out that Dr Gary Morgan, based on information provided, came up with a computer model of his expectation for the fishery.

I make the comment, which has been made many times before, that computer programs always have the same requirement: if you put in good information, you have a good chance of getting out good information; but, if you put in bad information, you will get out bad information. My point is that it is all right for Gary Morgan to develop a computer program and present it to fishermen, but there is only one problem: the prawns do not have a computer. What comes up on the computer screen is not necessarily what comes out of the water. The fishing strategy, agreed to in November 1995, states:

> That the optimum target size should be 22 prawns or less to the kilogram (a maximum of 165 prawns to a 7.5 kilogram bucket of prawns). Whilst this was the optimum size there is room for some flexibility in the size of fish and there is scope to fish to a slightly smaller size of 24 prawns to the kilogram.

The second point in the outline states that there be a maximum of six fishing nights available for the fishing period of 10 days from 18 November 1995 to 27 November 1995. I understand that there were 11 days in the full fishing period, and in that 10-day period there was some bad weather but I think that six nights were fished.

The strategy also states that any areas to be closed to fishing because of high levels of recruits from the nurseries or fish smaller than the target size may be closed after information is available from fishing. The target size is 22 prawns to the kilogram. Skippers will continue to be required to carry out a count on a bucket of prawns from each shot, on each fishing night, using the standard 9 litre bucket provided by SARDI. Fishermen were asked to refer to licence condition 156. The next point states that all licence holders will be required to complete and forward to SARDI a research report sheet for specific shot, either the third or the sixth shot, on each night, recording the number of prawns by size and sex from the standard 9 litre bucket taken from that shot.

The strategy provides that sample shots are to be a maximum duration of 10 minutes trawl time. While undertaking a sample shot, only the centre net is to be used and the outer nets must have the cod end open. Another point states which onboard skippers will monitor the fishing run, and the last point is that Mr Bruce Jackson from SARDI will be the independent monitor for this fishing season. Bruce will be required to be on board a different boat on each fishing night to monitor the size, composition, sex ratios, spawning status and other biological indicators. Bruce will be required to provide advice to the committee at sea on the suitability of fishing in certain areas, if required. As shadow Minister, I welcome that innovation, because from time to time there have been allegations about the fudging of figures. One would never believe that fishermen might not tell the truth, the whole truth and nothing but the truth, but this belt and braces situation is warranted.

I remind members that the clear instruction was 22 prawns to the kilogram but, if fishing deteriorated over the night, they could go to 24 prawns. I am advised that an extract from the minutes of the meeting of the Gulf St Vincent Prawn Fishery Advisory Committee of 12 December 1995 stated:

> Information collected on the fishing period was provided to the committee. This included fishing patterns, size, gradings and assessments of spawning status of stocks fished. There was a reasonable match between grading information from all sources as processor grades varied between 25 and 27 per kilogram, the [independent] monitor measuring sheets averaged 27.8 per kilogram.

Given that the clear instruction was 22 prawns, with a slight variation to 24 prawns, this is an alarming trend. The minutes stated that the measuring sheets made available by fishers indicated an average of 26.5 per kilogram. These are the people who have the most to lose, and their evidence was that they were taking 26.5 prawns to the kilogram, which is far beyond the recommended 22 prawns.

After several years of fishing at the limit of 27 prawns to the kilogram, the fishing deteriorated to such a parlous state that it was agreed that the fishery had to be closed for two years. Obviously, we are going down the same rocky road. In my view, it is history repeating itself. The committee was advised that spawning status was determined as 15 to 30 per cent having spawned, depending upon the size, with a 75 per cent confidence in the accuracy of the staging of spawning status. The only reliable figure on size is that of the independent monitor, which was 27.8 prawns to the kilogram.

Despite there being only six nights fished in November, prawns in quantities of a size 27 to 28 to the kilogram were obviously no longer available because, of the five nights fished in December, prawns of a size 30 to the kilogram were being taken. Published information relating to those five nights fished in December is not yet available, but I am advised that on at least two nights of fishing, on the information of the independent monitor, at least one boat resulted in taking prawns of a size 33 to the kilogram. We are getting down to first year recruits. Clearly we are seeing the same old problem we went through, the same mismanagement and the same indicators of decline in this fishery.

It will be interesting to see those figures when they are available. I request the Minister to obtain the independent monitor's measuring sheets for those nights fished in December and I would be most grateful if he could provide them before we go into Committee. I would have liked to make other comments and I would have liked to have more information from the Gulf St Vincent Advisory Committee. I would have sought advice from SAFIC (the South Australian Fishing Industry Council). I have not had the chance to find out what its consultation has been with the Government. One reason for that not being available is that there has been no consultation to this stage.

In conclusion, this legislation seems to be misplaced, it is inappropriate and it does not do what it necessarily sets out to do. It is my belief that we do not need to do some of this by regulation: the Act needs to be amended. That is where this ought to be recorded and, if regulations are required, I am prepared to look at them. In respect to the commonsense of what is intended by this legislation, given that there has been no consultation with fishermen, with the advisory committee or with the South Australian Fishing Industry Council (and especially because of the fact that it is not necessary at this stage), I question the requirement for this legislation. I am doubtful that it is warranted and even more doubtful that it will do any good to the Gulf St Vincent prawn fishery.

I state, sadly, for the record of this Council that I am extremely concerned for the future of this fishery. I do not know that it is all biological. As it has not been made available, I do not know what the financial consultant's findings were, that is, the Morrison report. It has been around for some months but has never been presented. Without that information it is almost impossible for fishermen and for the Gulf St Vincent Advisory Committee, and it is certainly impossible for SAFIC, to make a proper analysis of whether the legislation can do what it sets out to do and whether it is necessary in any case. I conclude my remarks and indicate that I will probably, if advice is made available, make further contributions at the Committee stage.

The Hon. M.J. ELLIOTT: I am not sure how many times we have had Bills before this House in the last 10 years in relation to Gulf St Vincent fishery, but certainly the issue has been debated on an all too regular basis. I must say that I think every time I have spoken I have noted the fact that the fishery simply is not recovering as the most recent scientific prediction suggested it would. That certainly seems to be the case again. I think the Hon. Mr Roberts has already covered some of the evidence—which is not on the official record as yet but which is now at least in *Hansard*—which suggests that there are still significant problems in the fishery.

For the record, it is probably worth giving a little history of the fishery itself, and I am quoting from the consultancy report of Dr G.R. Baldwin of September 1995. I will quote briefly from this report so that the history of the fishery is put into perspective. On page 4 of the report, it states:

> Although prawn resources were long known to exist in Gulf St Vincent (and small catches were taken as early as 1947) the development of the fishery did not begin in earnest until the late 1960s as rapidly escalating world prices and consumer demand provided the foundations for profitable prawn fisheries, both in Gulf St Vincent and elsewhere around Australia. Catches from Gulf St Vincent (the fishery for which consists of a single species, the Western King prawn, *Penaeus latisulcatus*) increased rapidly from its beginnings in 1968-69 as the number of vessels and number of hours trawling increased. Peak catches were reached in 1976-77 when 602 tonnes were caught. Fishing effort continued to increase, however, and reached a peak of 15 200 hours trawling in 1982-83. Catches were maintained for a few years by a move to fishing smaller prawns and by the intense exploitation of the Investigator Strait region of the fishery. However, the high fishing effort levels eventually impacted significantly on the stock and catches fell precipitously from 456 tonnes in 1983-84 to 240 tonnes the next year. More stringent management measures were introduced during the 1980s to assist in controlling fishing effort, including the buy-back of four licences, with the cost of this buy-back being passed onto those remaining in the industry on the assumption that such moves would restore catches and catch rates to former levels.
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> The result, however, was that the catch rates remained low and hence total catches remained depressed, reaching a minimum of 134 tonnes in 1990-91 as the number of fishing hours fell from its peak of 15 200 hours in 1982-83 to 3 970 in 1990-91. Amid continuing fears over the status of the prawn stocks, the fishery was closed completely for two years in 1990-91 and 1991-92. Upon reopening of the fishery in 1993-94, improved catch rates were seen which continued through into 1994-95, despite a very large target size of prawns of 22 to the kilogram. The fishery in 1994-95 consisted of 10 vessels, which fished 23 nights (1 798 hours) to take 147 tonnes of prawns, a catch rate of 81.6 kilograms per hour. The total gross value of product produced was approximately $2.03 million at an average price of $13.85 per kilogram.
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> Fears were still expressed by industry members over the health of the fishery and over the most appropriate direction for future management and research support for the fishery. As a result, the Department for Primary Industries (Fisheries) commissioned a seven week study to undertake a complete assessment of the stocks of Gulf St Vincent prawns and to recommend, on the basis of that assessment, a program of management and research to ensure the long-term sustainability and development of the fishery.
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> This report is the result of that study and follows a brief review of the status of the fishery undertaken by the consultant in July 1994.

I think that is a good summary of what has happened in the fishery. It does not go into some of the detail in terms of changing to single rig, double rig and triple rig, which of course led to a much greater fishing effort. In the same number of hours, the boats were dragging out a lot more prawns. There was a massive increase in effort from the same number of boats. I think it is beyond dispute, and the figures show clearly, that the fishery collapsed from that peak of 602 tonnes to 134 tonnes with no fishing for two years.

Arguments can be advanced about the cause, but I suspect that probably two causes have intertwined. One relates to the general health of the gulf. The gulf waters were being polluted by Adelaide, in particular, with sewerage works and water coming down the Torrens and the Patawalonga, etc, the significant loss of seagrass and significant amounts of sea lettuce going into the mangroves. So, important nursery areas for prawns were severely degraded. I think there is a biological cause relating to Adelaide, and we hope that, over time, that is reduced as water is diverted from Bolivar to Virginia and we tackle issues of catchment management.

It is almost certain also that the fishery was over-fished and that perhaps we knocked the adult breeding stocks back so far that there was a real struggle for that fishery to recover. However, it is beyond dispute that the fishery has been in a

state of collapse for close to a decade with our constantly being reassured that things are getting better.

We had legislation before this place when four boats were taken out of the fishery. At that time, we were told that the fishery would recover and stabilise at about 400 tonnes of prawns per year and that that would be an ongoing catch. On the basis of that information, the Parliament agreed to it but, more importantly, the Parliament agreed to it because the fishermen agreed. The fishermen in the fishery actually paid for the removal of those four boats on the advice given to them by Government experts. The fact is that that advice was wrong, but ever since the remaining fishermen have had that debt hanging around their neck, constantly being reassured that things were getting better. There is no doubt that, from time to time, they have pressured the Government to let them go fishing again. If you are a fisherman and you have a significant investment in a boat and a licence and if you also have this big debt hanging around your neck, there is a clear incentive to get out there and fish and to believe that things are getting better, even when the evidence is consistently to the contrary.

Governments in the past have, after some pressure, placed a moratorium at least on payments in the short term and on interest accumulations, but the debt remains. I think the Government will have to bite the bullet and forgo the debt and set about recovering moneys in other ways. It is my belief that a levy should be directly attached to the catch. As the size of the catch increases, perhaps the levy might increase, so that, if the fishery is going poorly and not recovering, there may be little fishing with no levy being collected. If the fishery does recover and the catch is high, there could be a high return to the Government. I do not think it is fair that the fishermen continue to hold a debt which was accepted on the basis of wrong advice. With respect to the Government being out of pocket, that has happened because of advice that it initially gave. It should seek to recover moneys when the fishery is capable of bearing the cost.

That is the direction in which I think the Government should head. As far as the Bill itself is concerned, I do not see it solving any of the problems in the fishery. It needs to be put on record that this Bill was introduced by the Minister with no prior consultation with SAFIC; with no prior consultation with the Gulf St Vincent Advisory Committee; and with no consultation with individual fishermen. The Bill was simply wheeled into Parliament, and it has caused concern. When clause 4 is read in conjunction with clause 8, and bearing in mind the decision of Olsson J., if anyone did transfer his licence and in effect pay out his total liability to surcharge, there is no ability to recognise this total payment by imposing a differential surcharge on the other licence holders. It is an anomaly that needs correcting and I have tabled an amendment that I will be moving during the Committee stage.

It is an amendment that I have been told is acceptable to the fishermen. In effect, it deletes any reference to prospective liability. The ability to transfer is still available but the ability to levy a surcharge on all licence holders uniformly is not affected. On the issue of amalgamation of licences, the Minister seeks to rely on the Morgan report as a basis for amending the legislation to allow for the amalgamation of licences. Amalgamation of licences was not one of the terms of reference and Morgan was not asked to consider it. Nowhere in the bulk of the Morgan report is there any reference to the matters referred to by the Minister. No submissions were requested or made on the issue of amalgamation; there was no consultation with the industry on the issue of amalgamation.

Morgan talks about a limit of 15 fathoms as total head rope length. He specifically excludes any increase by amalgamation. The Gulf St Vincent Advisory Committee, at its meeting of 7 November 1995, adopted the Morgan report but specifically excluded the comments made by Morgan under the heading of 'IV—Other issues', which is where he makes the sole comment about amalgamation. John Jefferson of Fisheries had advised that there would be the opportunity with amalgamated licences for amendments to the regulations to allow for increased horsepower, increased boat length and increased head rope length. The amendments to the regulations' conditions of licence would be entirely at the Minister's or Director of Fisheries' discretion.

Management of the fishery is the issue. It is up to the Gulf St Vincent Advisory Committee to determine how that management occurs. It should be the aim of the Government to protect the fishery, not to legislate how much the fishermen should make. That is the submission that has been made to me by the fishermen, and a number of important points are made there. I am not sure that I agree entirely with the last of those points, but I agree with a substantial amount of what they have to say. They went on to say that, based on the above information, part of the legislation regarding amalgamation should be opposed. The issue of transfer of licences is not as critical.

However, if any amendments are to be made they should recognise the 1987 agreement that the surcharge would not be levied until the fishery produced 262 tonnes or the promised benefit from the reduction in the number of licences arose. That position was supported by the Morgan and Morrison reports. With those words I indicate that I am not supportive of the Bill. I will be opposing sections of it and also making one substantial amendment.

The Hon. CAROLINE SCHAEFER secured the adjournment of the debate.

VETLAB

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

That the Legislative Council:

1. Expresses its concern about the State Government's plans to cut its financial support of the South Australian Veterinary Laboratory; and
2. Calls on the Government to announce its commitment to retain Vetlab services, including its five specialist sections covering diagnostic needs for bacteria, viruses, parasites, chemicals and pathology, to enable it to undertake its responsibilities including to—

(a) maintain a rapid response capability in the case of suspect exotic diseases;
(b) pursue the cause of new or unusual outbreaks of disease;
(c) provide laboratory-based accreditation of livestock for export;
(d) comply with Australian national quality assurance program standards;
(e) conduct research of vital importance to State and national imperatives; and
(f) provide the animal health information needed (through diagnostic activities and surveys) to establish Australia's *bona fides* in world markets.

(Continued from 22 November. Page 529.)

The Hon. R.R. ROBERTS: The Opposition will support the Hon. Mr Elliott's motion, which expresses concern about the State Government's plan to cut the financial support of the South Australian Veterinary Laboratory. As is evident

from Mr Elliott's motion, this facility has played a crucial part in the primary production industry and in pursuing the cause of new and unusual outbreaks of disease. It also provides that we should maintain a rapid response capability in the case of suspect exotic diseases and provide laboratory-based accreditation of livestock for export.

As the shadow Minister for Primary Industries, I again indicate my concerns at this Government's willingness to stand up and let the wind blow through its feathers about what it claims to be doing about primary industries and about assisting rural industries and primary industries in South Australia. When you look at what they do in this respect, you see that the economic rationalist theories come through in almost every endeavour. That applies not just to primary industries but to the sale of public assets such as water management in South Australia and—I say this with due deference—alleged attempts to sell forests in this State.

Unfortunately, what they say and do are two different things. Given that we have so many wonderful facilities for research into primary industries in South Australia such as at Waite, and given the initiatives of previous Minister for Agriculture Lynn Arnold, it is sad to note that South Australia lags behind every other State in Australia in terms of research and development in primary industries.

This facility has provided excellent services to all South Australians. One remembers the sad situation last year in respect of the HUS virus that had such a dramatic effect. It is on occasions such as those when quick responses are necessary. For that to occur in South Australia we need facilities such as the South Australian Veterinary Laboratory. I believe that it has played a role. For it to effectively do the job being asked of it, it needs to be adequately funded and supported. It is a sad indictment of this Government that it has seen fit to add financial pressure which will threaten the very existence of the South Australian Veterinary Laboratory.

Once again, I am happy to join the Democrats on this occasion. As has been the case so often in South Australia, when it comes to supporting those rural dwellers and primary producers in South Australia, despite the grand rhetoric of the Liberal Party it is more often becoming the role of the Democrats and the Labor Party to provide support for primary industries in South Australia. I support the motion and urge all members to support it.

The Hon. M.J. ELLIOTT: I will speak only briefly at this stage. I find it interesting that the Government has gone into denial mode by saying that it has not really decided what it will do. The sources of my information are extremely reliable and there is no doubt at all that the Government has a very clear intention to outsource the South Australian Veterinary Laboratory. I believe that all of the risks that have been itemised in this motion are very real risks. They are risks that should not be taken with our rural industries, as they are industries which still underpin the South Australian economy. As I have said, despite the fact that the Government is still denying that it will do this, I am absolutely confident that is the track it is moving down, and for that it deserves to be condemned.

Motion carried.

ADJOURNMENT

At 11.13 p.m. the Council adjourned until Thursday 15 February at 2.15 p.m.