LEGISLATIVE COUNCIL

Wednesday 31 July 1996

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

ASSENT TO BILLS

His Excellency the Governor, by message, intimated his assent to the following Bills:

State Clothing Corporation (Winding-Up) Amendment,

State Lotteries (Unclaimed Prizes) Amendment,

Trustee (Variation of Charitable Trusts) Amendment.

PAPERS TABLED

The following papers were laid on the table:

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

Racing Act 1976—SA Greyhound Racing Authority Rules—Takeover of Adelaide Greyhound Racing Club

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

South Australian Council on Reproductive Technology—Report, 1995.

ENVIRONMENT, RESOURCES AND DEVELOPMENT COMMITTEE

The Hon. CAROLINE SCHAEFER: I bring up the report of the committee on environment, resource planning, land use, transportation and development aspects of the MFP Development Corporation for 1995-96.

LEGISLATIVE REVIEW COMMITTEE

The Hon. R.D. LAWSON: I bring up the thirtieth report of the committee.

I also bring up the report of the committee on the Racial Vilification Bill and the submissions to the committee on that report.

ABORIGINAL DEATHS IN CUSTODY

The Hon. DIANA LAIDLAW (Minister for Transport): I seek leave to table a ministerial statement made by the Minister for Aboriginal Affairs in another place this day on Aboriginal deaths in custody.

Leave granted.

ACTIL

The Hon. R.I. LUCAS (Minister for Education and Children's Services): I seek leave to table a ministerial statement made by the Minister for Industry, Manufacturing, Small Business and Regional Development about C.S. Brooks purchasing Actil.

Leave granted.

QUESTION TIME

EDUCATION, CURRICULUM OUTSOURCING

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 outsourcing of curriculum.

Leave granted.

The Hon. CAROLYN PICKLES: The Program Estimates indicated that the number of curriculum staff fell this year from 342 to 323. The Opposition understands that this follows the introduction of a policy to outsource curriculum development functions and that a register of external consultants has been established. My questions to the Minister are:

1. How many external writers and consultants are now being used by the department and how are consultants selected?

2. What will be the cost of these external consultants in 1996-97?

The Hon. R.I. LUCAS: Obviously I will need to take some advice on the detail of that question. In broad terms, the Executive Director of Curriculum (Mr Dellit) has indicated that some of the writing of our curriculum work will be done by teachers and others in schools. As Minister, I would use the term 'outsourcing' advisedly. Most people would understand outsourcing to be something that the Government has undertaken in a number of other service areas. We have had a lot of discussion about water and a variety of other public services in that regard. My understanding of the essence of what the Curriculum Director is looking at is some notion of outsourcing. It may be that some non-education people may well be utilised, but I understand that some of this curriculum writing will be undertaken by curriculum experts within schools.

Certainly, I share the view that some of our best curriculum exponents and writers are the practitioners of teaching and learning out there in schools. They are developing their own programs and are in the practice of ensuring that their curriculum support materials can work in the real world of the classroom. The view of the department and the Government, and which I support as Minister, is that if some of our best practitioners are out there in the schools we ought to look at a mechanism whereby we can avail ourselves of the expertise that exists in schools without having to go down the old model, which meant that they had to be seconded out of schools for periods of up to two years at a time, when they are then lost to the students in the schools where they were previously operating and are permanently or semi-permanently seconded to the department's Curriculum Directorate.

I am aware of agencies and offices other than the department over the past few years—back in the late 1980s and early 1990s—providing some assistance in terms of production of support materials. I met recently with a former teacher of the department who is now in an executive officer position with one of the conservation groups, and she had undertaken some work on a contractual basis with the Department of Education and Children's Services in producing some support materials for the department in the environment and conservation area. I do not see that a sensible use of expertise that might exist outside the department, as evidenced by that example, need cause anybody any concern at all. I will refer the honourable member's questions to the Chief Executive Officer of the department and the Executive Director of Curriculum, try to get more detail of the department's responses in this area and bring back a reply as soon as possible.

TRAINEE CONTRACTS

The Hon. R.R. ROBERTS: I seek leave to make an explanation before asking the Attorney-General, representing the Minister for Industrial Affairs, a question about trainee contracts.

Leave granted.

The Hon. R.R. ROBERTS: Today I received a letter, following a phone call, in respect of a constituent who was involved in a training contract under the Industrial and Commercial Training Act 1981. I will read from this letter because it adequately explains the prelude to the question. The writer states:

> I am writing this letter to inform you of a situation that has developed between myself and my former employer, David Vander Dussen of A1 Floritec. This has possibly been brought to your attention [before].
>
> As of Monday 27 May 1996, four other employees and myself had our 12-month contracts terminated by Mr Vander Dussen after only three months of the traineeship. Having not done anything wrong and being told by Mr Vander Dussen that we were exemplary employees we were bewildered by this action of terminating our contracts.
>
> We were employed under the rights and conditions of the nurseries landscapes award. According to Mr Trevor Girdham of the Australian Workers Union, we were grossly underpaid. The problem was not in my gross pay but mainly in the moneys that were deducted from my pay packet before tax.

He gives the examples:

> 1. $50 a week was deducted for job training; that is, lecturing expenses, use of the classroom, etc. As far as I know, this amount should not have been deducted as the Accreditation and Registration Commission had already given Mr Vander Dussen the moneys in lieu for the four trainees and myself.

He names them, but I do not intend to put them in the record. The letter continues:

> 2. An additional $50 was also deducted by Mr Vander Dussen for equipment and materials levy for the on-the-job sector of the traineeship, this being, for instance, tools of the trade, waterproof clothing for winter. I never saw any of the promised materials.
>
> In summing up, my colleagues and I hope that you may be able to take some suitable action for full compensation for the moneys owing to us.

I am also advised in this letter that as of 27 July 1996 none of the trainees named on the previous page had received their taxation group certificates from Mr David Vander Dussen. My questions are:

1. Will the Minister investigate this particular case to ensure—

The Hon. R.D. Lawson interjecting:

The Hon. R.R. ROBERTS: Obviously the Hon. Mr Lawson does not care about the rights of trainees who are being ripped off by unscrupulous employers. That is his game. Will the Minister investigate this particular case to ensure, first, that no abuses of the system have occurred and that all moneys rightly payable to my constituents are paid, and, secondly, that no breaches of the contract have occurred and no illegal deductions from workers' pay have been made or withheld?

2. Will the Minister also conduct an inquiry into the extent of abuses of this scheme and report back to the Parliament?

3. Will the Minister institute proceedings against perpetrators of corrupt breaches of the conditions of the scheme if it is found that such breaches or incidents have occurred?

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

WATER, CATCHMENT

The Hon. T.G. ROBERTS: I seek leave to make an explanation before asking the Minister for Transport, representing the Minister for Primary Industries and the Minister for the Environment and Natural Resources, a question about the water catchment levy.

Leave granted.

The Hon. T.G. ROBERTS: I am starting to receive a lot of phone calls, and I understand members opposite are also starting to receive them, about possible inequalities in the striking of the levy rate for the rehabilitation of the saline areas of land in the Upper South-East. I have been contacted by a number of people who have had the levy applied to their property within the catchment of the saline areas that have been affected. They say that the striking of the rate is inequitable, because farmers who have looked after their land for a long period of time are paying the same rate as the farmers who have abused theirs. During the 1950s and 1960s particularly, a considerable amount of surface vegetation was cleared for pastoral activities. It was quite clear during the late 1960s and early 1970s that damage was starting to show and that some remedial work would have to be done in that region to rehabilitate those areas through revegetation and an attempt made to find ways to stop the saline waters in the water table from coming to the surface.

The Government's water catchment management levy for regional areas was the formula applied. I understand that officers of PISA and possibly DENR went to the South-East to talk to farmers and that, in some cases, contact was made with the appropriate people. In other cases, I am told that decisions were made in the absence of any participation by farmers. I only have telephone calls to verify that, I have not spoken to anyone from within the department, but I have also been told that the cross-representation at one meeting in particular was not a true indication of the wishes of the landowners in that area, yet a vote was taken, decisions made and a rate struck that affected many people who had had no input in those formulas, views or ideas.

My questions are directed to both the Minister for Primary Industries and the Minister for the Environment and Natural Resources. Are both Ministers aware of dissatisfaction in the Upper South-East regarding the consultation process and outcomes associated with the rehabilitation of salt affected land? The farmers are not complaining that the work must be done; their complaints revolve around the method by which the levy is being applied.

The Hon. DIANA LAIDLAW: My recollection is that both Ministers were involved in the initial submissions for consideration by Cabinet. I will refer the honourable member's questions to both Ministers and bring back a reply.

CHIEF JUDICIAL OFFICERS

The Hon. SANDRA KANCK: I seek leave to make a brief explanation before asking the Attorney-General a question about the power of chief judicial officers.

Leave granted.

The Hon. SANDRA KANCK: I refer the Attorney-General to an article on page 8 of today's *Advertiser*, which reports that a Perth magistrate was barred from hearing restraining order applications following the lodgment of a number of gender bias complaints against him. The article states that Perth magistrate, Ron Gething, was accused of gender bias in January after he found a man aged 25 not

guilty of stalking a women for seven years because the man said that he had not intended to intimidate and frighten her. Mr Gething is quoted as saying when he dismissed the charge that the man was being like a little puppy dog wagging his tail.

The article informs us that this prompted a string of complaints about this magistrate including complaints from two women who provided transcripts and decisions that Mr Gething had made in respect of court cases in which they were involved. I understand that no power exists in South Australia for chief judicial officers to officially bar magistrates or judges from hearing certain cases or types of cases, although discretion can be exercised.

Members interjecting:

The PRESIDENT: Order!

The Hon. SANDRA KANCK: My question is: does the Attorney-General believe that the chief judicial officers of the various South Australian courts should have a clear power to bar individual judges and magistrates from hearing certain types of cases not only to ensure that justice is done but that it is seen to be done; and will he introduce legislation to enable this to be effected?

The Hon. K.T. GRIFFIN: I have seen the report of the Western Australian matter. I do not have all the details. I do not know the circumstances other than what has been reported in the media, and I am always reluctant to rely on media reports to make policy decisions about what should or should not happen or even to make judgments about matters with which I may not be particularly familiar. What I will do in relation to—

The Hon. T.G. Roberts: What about setting the date on your watch?

The Hon. K.T. GRIFFIN: I am happy to do that.

The Hon. Sandra Kanck interjecting:

The Hon. K.T. GRIFFIN: I am not going to work anything on any basis. I will obtain some information about what actually did occur in Western Australia in relation to that magistrate. In so far as the law in South Australia is concerned, the chief judicial officers do allocate workloads but on the basis of a rotating responsibility, with some months on chamber applications, other months on civil and other months on criminal. So a rotation of judicial officers is involved in particular sorts of work. But rarely, if at all, do chief judicial officers say, 'Well, you cannot hear this sort of case because you have demonstrated bias,' I think for the very significant reason that the chief judicial officers may well not have been aware of all the facts in a particular matter and may regard themselves as impinging upon the independence of that judicial officer to make decisions based on his or her understanding of the facts.

If there are concerns about the way in which particular officers operate, then ultimately it is for the Court of Appeal to make judgments about that. I certainly have no intention of introducing legislation which will give to chief judicial officers power to direct that judicial officers will sit on some cases and not on others, again for the very reason that I have indicated, that that might well suggest some external interference with the exercise of judicial independence. Our society ought to be very sensitive about anything which seeks to bring in some outside involvement, particularly in matters in relation to which the person exercising the authority has no personal knowledge or, more particularly, has not been involved in hearing evidence given in the proper court environment. So I have no intention of bringing in legislation that will change the current powers and responsibilities of chief judicial officers. I am happy to seek to obtain some information about what actually did happen in Western Australia to determine what authority the chief judicial officer sought to exercise in that case, if in fact such authority was exercised, and the legal basis upon which that was done.

TRANSPORT, SOUTHERN REGION

The Hon. T.G. CAMERON: I seek leave to make a brief explanation before asking the Minister for Transport a question about the appointment of a passenger transport coordinator for Adelaide's southern region.

Leave granted.

The Hon. T.G. CAMERON: The lack of transport services in southern areas of Adelaide has been a concern for some time. The recent completion of the strategic plan for the south, developed by the Southern Region of Councils, in partnership with the State Government, identified one of the highest priorities for action as:

> . . . the development of an integrated public transport strategy with special emphasis on additional east/west services and links between Sellicks Beach and Noarlunga Centre.

Following advice from the Passenger Transport Board, the Southern Region of Councils conducted a feasibility study on a passenger transport coordinator scheme for the area south of the Onkaparinga River, including Aldinga and Sellicks Beach. The feasibility study clearly identified the need for a coordinator to coordinate the overlapping services in the area, to help them develop new services, prevent duplication, facilitate customer consultative processes and actively market the transport services provided by all operators. The feasibility study proposes that the Passenger Transport Board assist the Southern Region of Councils to employ a passenger transport coordinator for a period of two years. My questions to the Minister are:

1. Does the Minister support the proposal to appoint a passenger transport coordinator for the southern regions?

2. Will the Minister report whether the Passenger Transport Board has begun negotiations with the Southern Region of Councils to employ a passenger transport coordinator and, if so, what has been the result of those negotiations?

The Hon. DIANA LAIDLAW: I am well aware of the build-up of need over many years for improved transport services in the far south of metropolitan Adelaide. Also, east-west services, as the honourable member highlighted, are needed from the Happy Valley council area across to Noarlunga. The Passenger Transport Board recognises the same lack of services, and it was for this reason that it supported, through funding, the feasibility study to which the honourable member refers. The study has been completed and been assessed by the Passenger Transport Board, which is the appropriate forum. In turn, recommendations will be made to me for funding or otherwise.

I am aware that brokerage schemes on a pilot basis have been in place for some time, and the Passenger Transport Board is reviewing those arrangements. It may be that the assessment of this feasibility study has been delayed for somewhat longer than people in the south, the board or I would wish while another assessment is being made of the brokerage schemes in the Fleurieu Peninsula, the Barossa and now also the Riverland. I will therefore provide further information to the honourable member if I learn from the Passenger Transport Board that there is updated advice to that which I have now provided the honourable member.

BICYCLES

The Hon. J.C. IRWIN: I seek leave to make a brief explanation before asking the Minister for Transport a question about bicycles.

Leave granted.

The Hon. J.C. IRWIN: I have been contacted by a number of people who enjoy walking along the Torrens River pathways. My question could apply to any similar pathway situated around the metropolitan area, so my question relates not only to the Torrens River area. My question might also apply to a pathway/bicycleway, as I imagine the paths are designated and designed to accommodate both walkers, joggers and bicycles. I am advised that problems are arising from this dual usage as cyclists and pedestrians do not always mix, especially when the cyclist approaches from behind without any sort of warning, or approaches on the same side of the pathway as the pedestrian jogger. This, of course, as members could imagine, is complicated by the presence of dogs, either running loose or with people who are walking on the pathway. There is also a problem with identification if a cyclist causes a problem on the pathway and an offence needs to be reported. My questions to the Minister are:

1. Are there any rules for the co-existence of walkers, joggers and bicycles on pathways, such as the pathway along the Torrens River?

2. Is it a requirement that bicycles have bells?

3. Would the Minister consider some form of identification for bicycles?

The Hon. DIANA LAIDLAW: Rules applying to cycling are provided for in the Road Traffic Act and relate specifically to the co-existence of cyclists and pedestrians. These rules for shared-use cycleways were introduced, I think, about five or six years ago. One shared-use facility with which we are most familiar is the Torrens River linear park. There are many more that the Government is keen to establish, and it has a feasibility study at the moment on the Coastal Way from Outer Harbor to Seacliff. With the general emphasis on cycling that this Government has encouraged, I can understand that there have been problems with the coexistence of cyclists and pedestrians. That is why I have asked for this matter to be addressed in the Cycling Strategy, a copy of which I received recently and which I hope to release in the near future because there is a need for a much heightened education campaign in terms of coexistence of cyclists and pedestrians, particularly if taxpayers are going to invest in more and more shared use bikeways and pathways. I am keen to see money spent on such purposes.

In the meantime, the rules provided for in the Road Traffic Act require cyclists to keep to the left and have a warning device on their bicycles. The Act does not stipulate that the warning device must be a bell; it could be a horn or a foghorn, although the pedestrian would die of a heart attack if it were a foghorn. It is a warning device and it is not defined whether it is a bell or foghorn. However, the Act indicates that it must also be used in certain circumstances to help avoid situations of danger, and in such situations it would provide a warning for pedestrians. The device must be capable of being heard as a warning device for the approach of a bicycle. Those provisions are clearly stated.

I can indicate that we have not been as smart or effective as we could have been with the education campaign, but that will come following the cycling strategy. In the meantime, I can indicate to the honourable member that I, too, have received representations seeking to identify bicycles by registration thereof, as we do today with motor bikes and cars. I have resisted and will continue to resist such a provision, even though the Treasurer might be tempted in terms of raising funds. Administratively, it would be quite a hassle and would curtail the long-standing practice of cycling as a family activity, particularly for young kids, because with registration we would see fewer bikes being purchased and fewer kids encouraged to cycle as a family activity. In my view, cycling should by all means be encouraged and not discouraged, and I would see registration in that light. However, I am keen to see adopted or at least canvassed in this place or in the community an identification scheme for bicycle couriers. Considerable discipline has to be introduced in the practices of bicycle couriers.

The Hon. L.H. Davis: A code of conduct.

The Hon. DIANA LAIDLAW: Bicycle couriers may need a code of conduct, but the public needs to be able to identify bad behaviour by bicycle couriers. Alternatively, it may act as a deterrent, knowing that the public would identify bad behaviour that could be acted upon by the police or other authorities. Some behaviour by bicycle couriers is providing a really bad message to the community about cycling in general, because it is seen to be a dangerous practice. Cyclists are putting themselves and others in danger on city streets.

At the same time, I rely on a daily basis on bicycle couriers to get my messages and parcels of a business nature around the city, but that need for speed should not mean that any of us condone bad and dangerous behaviour on the part of riders themselves or others on the footpath. I have seen bicycle couriers, particularly in Bank Street, going down the wrong side of the road, down the footpath, across street corners and crossing lights while the traffic lights are still red. This matter will be canvassed in a strategy paper that will be released shortly to bicycle and courier companies. That is the extent to which I would be prepared to go with identification of cyclists at this stage.

BANK FEES

The Hon. P. HOLLOWAY: I seek leave to make an explanation before asking the Minister for Consumer Affairs a question about bank fees.

Leave granted.

The Hon. P. HOLLOWAY: In the Melbourne *Age* this week was an article 'Banks to have open slather on fee rises', which states:

> Banks will be able to increase fees and charges more freely with the Federal Government admitting it has abandoned plans for the Australian Competition and Consumer Commission (ACCC) to monitor bank fees strictly for the next three years. The admission comes as banks begin a new push to raise fees and charges to compensate for recent cuts in home loan interest rates.

The article continues:

> A spokesman for Mr Costello said that the commission would not automatically monitor fees for the next three years as recommended by the Prices Surveillance Authority after its inquiry into fees last year. The PSA (later incorporated into the ACCC) said banks should alter their fee structures so they did not penalise people with low balances and recommended that the commission monitor the banks to ensure that they did not increase their overall revenue from the changes.

The article also states:

> Australian Consumers Association research earlier this year showed that some customers could pay up to 1 000 per cent more in fees if they did not dramatically reduce the number of monthly transactions. The ACCC Chairman, Professor Allan Fels, endorsed the thrust of the research, saying some people would be worse off

under the new fee structures, which heavily penalise customers for making over-the-counter withdrawals, or using ATMs or EFTPOS often.

My questions to the Minister are:

1. Will he approach the Federal Government with a view to changing its decision to abandon plans for the ACCC to monitor bank fees for the next three years?

2. What other action can he and will he take to pre-empt the massive increases in bank fees predicted by the Australian Consumers Association?

The Hon. K.T. GRIFFIN: Whilst the Australian Consumers Association might be making some predictions, its predictions are not always correct.

Members interjecting:

The Hon. P. Holloway: Well, Professor Fels agreed with them in this case.

The Hon. K.T. GRIFFIN: Professor Fels can agree with whomever he likes. The fact is that the banking industry is under Federal jurisdiction, and there is nothing a State can do in relation to the monitoring of fees charged by banks. If issues are drawn to the attention of the Commissioner for Consumer Affairs, he will address them. Where they fall within a Federal jurisdiction, they will be referred to the appropriate Federal agency. In terms of what is happening at the Federal level, I will give consideration to the issues raised and bring back a reply.

TEACHERS' DISPUTE

The Hon. R.D. LAWSON: I seek leave to make an explanation before asking the Minister for Education and Children's Services a question about teachers' industrial action.

Leave granted.

The Hon. R.D. LAWSON: Yesterday, I asked the Minister an entirely unsolicited question about claims by the Australian Education Union that during the past two years the Government had steadfastly refused to negotiate with the union. In the course of his enlightening response, the Minister said that he would take advice and:

> . . . respond more fully tomorrow if I am able to place on the table facts as to what has been going on in the past few weeks and whether or not the teachers union leadership was being genuine in any way at all in attempting to resolve the dispute.

Is the Minister able to inform the Council today on this matter? If not, when will he be in a position to do so?

The Hon. R.I. LUCAS: I thank the honourable member for his question and his interest in matters that are of great concern to students, parents and teachers in relation to the current projected action by the teachers union in South Australia for strike action. I did indicate yesterday that I would take some further advice, and I have done so. The Government today has initiated action in the Industrial Commission in effect to remove the confidentiality provisions which have so far governed the negotiations within the commission. A compulsory conference is to be convened at 7 o'clock tonight by Deputy President Hampton.

I have seen the statements over recent weeks and again this morning by the President of the teachers union, who has indicated that Government claims that the union has refused to compromise on its $230 million salary and conditions claim were incorrect. As I have said all along, those claims by the union were wrong in fact, and the only way in which the Government can see the truth being revealed is in effect to put all the cards on the table and remove the confidentiality provision of the discussions which have now concluded within the Industrial Commission.

The Government has indicated that it would be delighted to have revealed to all parents and teachers the negotiating position of the teacher union leadership over recent weeks and for the Government's position similarly to be revealed to all parents and teachers in relation to what we have been undertaking in the last few weeks in an attempt to resolve the teachers dispute. I have today issued a challenge to the President of the Institute of Teachers. The Government has now initiated this action, and the challenge is now with the leadership of the union. Are they prepared to support the Government in the facts being revealed? It is a simple issue.

The Hon. Carolyn Pickles interjecting:

The Hon. R.I. LUCAS: No, all the facts. It is a simple issue. This will be a test of the leadership of the union as to whether or not they have been telling the truth. Let us have on the table all the negotiating positions of both parties—the Government and the union. The Government is delighted to have that revealed. We have initiated the action. The proof of the pudding will be in the actions of the union leadership. If the union for whatever reason chose to oppose the public issuing of the facts of what has gone on, one can only speculate why the union leadership would not want to have revealed what they have been up to in the last few weeks in terms of the confidential discussions.

I have had a number of calls in the last few weeks about a story under the heading 'More Pay, Less Work: Teachers' New Demands' that the *Advertiser* published on 18 June 1996. The *Advertiser* claimed to have a copy of a confidential memo. It also claimed that, in that confidential memo, there was the revelation that teachers wanted in effect to increase their top salary level from just under $40 000 a year to $57 500 a year for a four to six hour reduction per week in teaching instruction time for every teacher in South Australia. The current average is somewhere between 22 and 24 hours, so it wanted a four to six hour reduction in the average teaching instruction time, according to this particular story from the *Advertiser*, and for the school year to be reduced by over three weeks—in fact, by 17 days—to 190 days a year.

I have had a number of calls from parents and teachers asking whether or not the story in the *Advertiser* was true. Of course, I am not able to respond. I have been unable to indicate whether or not this claim made by the *Advertiser* is correct because of the confidentiality provision that currently prevails in the commission. Of course, if this claim was correct, it would mean that teachers would be asking for a pay increase of $356 per week for most teachers in South Australia and a pay increase of $599 per week for some principals.

The Hon. T.G. Roberts interjecting:

The Hon. R.I. LUCAS: The Hon. Mr Roberts knows about ambit claims. You have an ambit claim at the start of a dispute to create a dispute. The Hon. Mr Roberts has been involved in a number of ambit claims previously with unions. That is what you have an ambit claim for. We are not in the business of creating a dispute here. A dispute has been going for a year and a half. We are in confidential negotiations before Deputy President Hampton at the moment, so there is nothing about ambit claims at the moment.

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: As I said, I cannot respond at the moment to the many teachers and parents who ask me whether or not this claim by the media is correct. I would

love to respond and to be able to indicate whether or not that claim made by the media is correct, and to put the Government's view (if it was a correct claim) before the Industrial Commission. The only way in which the facts can be revealed and we can indicate whether or not some of the claims being made by sections of the media are correct will be to remove the confidentiality provision. The challenge is now before the union leadership: put up or shut up. They are making the claims.

The Hon. T.G. Cameron: You said that before.

The Hon. R.I. LUCAS: And I will say it again. The Government is prepared to have everything revealed in relation to the discussions. The test now is whether the union leadership will allow the revelation of all they have been up to in the confidential discussions over the last few weeks before the Industrial Commission.

DOCTORS, BULK BILLING

The Hon. T. CROTHERS: I seek leave to make a precised statement prior to directing some questions to the Minister for Transport, representing the Minister for Health, about bulk billing for medical services rendered to patients.

Leave granted.

The Hon. T. CROTHERS: In an article recently printed in the *Advertiser* and headed, 'Government Plot to Scrap Bulk Billing', it was alleged that the Federal Government and the Australian Medical Association were plotting to scrap bulk billing. Indeed, it was asserted by the Doctors Reform Society that the Federal Health Minister, Dr Wooldridge, had held talks with the Australian Medical Association to discuss ending the practice. The article also stated:

> The AMA has a long-standing opposition to bulk billing in which the Government pays a fixed price for medical services provided by doctors without patients being forced to contribute to any cost beyond the normal Medicare levy.

The article further states:

> During the election campaign, the Prime Minister, Mr Howard, committed the Coalition to retaining bulk billing as a central part of its health policy.

Yet, a spokesperson for the Doctors Reform Society, Dr Con Costa, is reported as follows:

> The Government's health agenda had been taken over by AMA members and supporters, including Dr Wooldridge, his parliamentary secretary, Bob Woods, backbencher and former AMA chief Dr Brendan Nelson, and Aboriginal Affairs Minister, Dr Herron.

Dr Costa also asserts that:

> There appears to be plans between the AMA and their members within the Howard Government to destroy bulk billing and force patients to pay when they visit the doctor.

He also put forward the view that:

> The public needs to be warned the AMA is now having a major say in determining the Howard Government's health policy.

In the light of the foregoing statement, I direct the following questions to the Minister:

1. Is it true that prior to the last Federal election John Howard committed his now Coalition Government to retaining bulk billing as a central part of its health policy?

2. If the medical practitioners within the Coalition Government's ranks succeed in their aim to destroy bulk billing, how will that in the Minister's view impact on the underprivileged in South Australia in respect to their well-being?

3. If bulk billing is discontinued, how much does the Minister believe that that could add to health costs within South Australia?

4. Does the South Australian Minister believe that bulk billing should be retained and, if not, why not?

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

TELEPHONE TOWERS

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister for Education and Children's Services a question about mobile telephone towers.

Members interjecting:

The PRESIDENT: Order! There is far too much conversation. I cannot hear the questioner. I ask members to resume their seats.

Leave granted.

The Hon. M.J. ELLIOTT: I have a copy of a circular put out by Dennis Ralph, the Chief Executive of the Minister's department. The second to last sentence of that letter about telephone towers and the potential for their being located on school sites states:

> I fully support the position of local decision making on this matter, based on community consultation at the site level, with access to expert advice from the South Australian Health Commission.

I understand that that is the Minister's position also on this subject. I have had several bits of information brought to my attention. The first is an article in *Search*, Volume 27 No. 5 of June 1996, in relation to TV towers, admittedly operating on a different frequency to those used by telephones. In that article an occupational physician by the name of Bruce Hocking, who also happens to be President of the Australasian Faculty of Occupational Medicine, has published findings which show that childhood leukaemia was 60 per cent higher in people living near three major TV towers in North Sydney, compared with residents living further away. As I understand it, evidence even in relation to TV towers is still relatively recent.

I understand that the advice that the Government is receiving at this stage is that it is not believed that mobile telephone towers will have health implications, but it has been pointed out to me that its major source of advice in South Australia is the national expert and the President of an international commission. In other words, the advice you get, whether State, national or international, essentially comes from the same person. That is not to question his credentials, but the point has been made that the major sources of advice are rather circular.

The question I put—because it has been put to me—is that with many schools now short of funds they do not want to have towers installed on their site as children would spend a large amount of time throughout the year quite close to the towers. However, being short of funding, while they would rather not have the towers they would like the money more and therefore take the risk. My questions to the Minister are:

1. What weight does he put on the precautionary principle and is he not prepared to exercise that in relation to radio telephone towers on school sites?

2. Although the Government via Mr Ralph and possibly the Minister himself are delegating the responsibility to local

communities, if a decision is made to install a tower and later evidence shows that it does cause problems—

The Hon. Carolyn Pickles interjecting:

The Hon. M.J. ELLIOTT: That is exactly the question I want to ask. Who will be legally responsible? Has the Government then passed the responsibility to the school council or does the Government still retain the legal responsibility if towers are installed on school sites?

The Hon. R.I. LUCAS: I thank the honourable member for his question.

The Hon. Anne Levy: Will you take five minutes to answer it?

The Hon. R.I. LUCAS: Would you like me to?

The Hon. Anne Levy: No.

The Hon. R.I. LUCAS: Perhaps if you stopped interjecting I could get on with answering it.

The Hon. Anne Levy interjecting:

The Hon. R.I. LUCAS: Have you finished?

The PRESIDENT: Order!

The Hon. R.I. LUCAS: I thank the honourable member for his question as it is an important one. I will endeavour to do it justice by responding comprehensively and in a reasonable, modest and moderate fashion. It is an important issue and one of concern to some parents because some people in the community, as the honourable member will know, who take a strong view in relation to this issue and are seeking to ensure that their views hold sway in relation to any sensible discussion about the issue of mobile phone towers. I am a cautious Minister and therefore operate cautiously and have done so in relation to this.

I accept the notion that in these sort of issues one needs to be cautious and adopt the principles of the public administration, which would be in accord with the Minister's operating cautiously. Therefore, knowing that as the Minister for Education and Children's Services and as the department we are not experts in radiation issues, we have gone to the experts. We have gone to the Health Commission—

The Hon. Carolyn Pickles interjecting:

The Hon. R.I. LUCAS: The Hon. Carolyn Pickles laughs at the public servants in the Health Commission who are the experts in this area. If the Hon. Carolyn Pickles wants to laugh at the hard working public servants in this section of the Health Commission, that is for her. I will defend the hard work, competence and expertise of the hard working public servants in this section of the Health Commission. They are renowned national and international experts in this area. Because we are cautious we have relied on their advice and have gone to them and taken their advice as to what our policies ought to be in relation to mobile phone towers. Their advice has been overwhelming, adopting whatever principle you want to adopt, to the Government and to the department.

I am going on memory here and will certainly correct it and provide further information if I am wrong, but my recollection is that the levels of exposure, where there has been any medical evidence internationally of any health concerns at all, is of the order of 50 000 times greater than the levels of exposure that have been measured around mobile phone towers. I will need to check the exact detail, but I believe it is some 2 000 times the current national and international standards. I will check the exact detail of those results and findings by the Health Commission and other experts—

The Hon. T.G. Roberts: That would be cause for some concern, wouldn't it?

The Hon. R.I. LUCAS: No, the levels are that far underneath.

The Hon. T.G. Roberts interjecting:

The Hon. R.I. LUCAS: They have done all of that. All of the health experts using these principles of being cautious have done all of that in terms of making their considered health judgments. If, as soon as anyone makes a claim in relation to a new piece of technology, on the automatic precautionary principle of banning it—

Members interjecting:

The Hon. R.I. LUCAS: No. The proposition put to me (and the same people have spoken to the Hon. Mr Elliott, but I will not name them) is the precautionary principle that, if there is any concern at all, we should not allow mobile phone towers.

The Hon. M.J. Elliott: I didn't say that.

The Hon. R.I. LUCAS: I am not saying that you said it; I am saying that the people who are pushing this view in the community have put that forward. If we operate on that basis, we would ban microwave ovens, mobile phones and a variety of other new technologies. The Hon. Mr Elliott quoted a study by Mr Hocking. He would know, and I can quote for him, some recent studies in relation to mobile phones allegedly cooking people's brain cells, or something equivalent, through their use. I can also find some research studies—

The Hon. M.J. Elliott: By the same person?

The Hon. R.I. LUCAS: No; by other eminent people as well. I can quote research studies for the Hon. Mr Elliott citing the dangers of microwave ovens. Most of our schools currently have access to microwave ovens in their home economics centres. Most also have access to mobile phones which are continually being used by staff within the schools as part of their ongoing operations. In addition, there are other relatively new technologies about which various claims have been made. All we can do is go to the experts in the Health Commission and say, 'People are making these claims. Give us a judgment whether or not we should adapt our public administration policies within the Department for Education and Children's Services as a result of your expertise and expert advice.' We have done that. We have been very cautious—

The Hon. T.G. Roberts interjecting:

The Hon. R.I. LUCAS: We have been to the experts in the Health Commission. There is a paper—

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: I can provide for honourable members a recent paper by about 20 or 25 international experts who met recently in an international conference or meeting and agreed as a group of international experts about this matter. The Hon. Mr Elliott says, and the people who speak to him say, that all this advice is coming from one person, Dr Michael Repacholi, who is associated with the Health Commission. The most recent advice has been not just from Dr Repacholi; it has come from 20 or so internationally renowned experts in this area who came together, looked at all the research studies which have been done internationally, and gave a considered judgment about mobile phone towers. I shall be happy to provide to any members who are interested a copy of that international paper by those international experts, not just—

The Hon. Carolyn Pickles interjecting:

The Hon. R.I. LUCAS: I shall be happy to do so. The proposition by the Leader of the Opposition basically is that

all mobile phones ought to be banned, because every mobile phone tower which is anywhere near a residential area will expose young children and families on a continuing basis for seven days a week. The position being put forward by the Hon. Ms Pickles, which is nonsense because she will not say it publicly, is that every mobile phone tower ought to be banned because they are in residential areas.

Members interjecting:

The Hon. R.I. LUCAS: A number of my colleagues indicate that they are happy to have them. As I indicated, based on the medical evidence and the expertise that has been provided, the answer to the question is that if there is a mobile phone tower near where I live or work, so be it. I have been asked the question and I have given the answer. The logical extension—

The Hon. Carolyn Pickles interjecting:

The Hon. R.I. LUCAS: I have.

Members interjecting:

The Hon. R.I. LUCAS: I should have to take advice on legal liability. I am not a lawyer, so I cannot give legal advice. I have answered the questions. The question on legal liability is a matter on which I shall have to take legal advice because I am not a lawyer and I will not provide legal advice.

EDUCATION (COMPULSORY SCHOOL AGE) AMENDMENT BILL

The Hon. CAROLYN PICKLES (Leader of the Opposition) obtained leave and introduced a Bill for an Act to amend the Education Act 1972. Read a first time.

The Hon. CAROLYN PICKLES: I move:

That this Bill be now read a second time.

The purpose of introducing this historic and, some might think, controversial Bill at this stage of the parliamentary sitting is to allow for a period of public consultation. I believe that the views of parents, educationists and, most importantly, young people who are dropping out of the education system early should be sought.

I note that the Leader of the Opposition, the Hon. Mike Rann, has for many years been interested in doing something about this problem, certainly since we have seen retention rates dropping so dramatically in this State.

The school leaving age for other States and Territories in Australia is 15, except in Tasmania where the school leaving age is 16 and in Western Australia where the school leaving age is the end of the year in which the student turns 15.

A number of Commonwealth and European countries have school leaving ages of 16. New Zealand introduced this reform as of 1 January 1993. Great Britain has had a school leaving age of 16 since 1972, following legislation passed with bipartisan support.

School retention rates are a real problem. They have been dropping much faster in South Australia in the past two years compared with the rest of Australia, although there is a universal decline in retention rates. The Minister will be well aware that ABS statistics show a decline in retention rates to year 12 from 92 per cent in 1993 to 72 per cent in 1995. The Minister's own figures, which he tabled during the Estimates Committee suggest an even lower rate of 62.9 per cent in 1995. The school system as a whole does not appear to be offering young people what they want or need in order to gain meaningful employment. It is not clear just where young people are going when they leave school early. In many cases, it is not to permanent or full-time employment. The demand for full-time youth labour has approximately halved over the past 20 years. ABS statistics show that the number of 15 to 19-year-olds employed in South Australia fell from 44 000 in December 1994 to 43 800 in December 1995. So, unfortunately, the Minister cannot claim that our lower retention rates are due to young people leaving school to commence paid employment. Youth unemployment rates have hovered close to 40 per cent for some time and current Government policy is not helping to reduce this figure.

We cannot be the smart State in the clever country if our kids do not complete school. We cannot be the leading city in the high-tech State if we are becoming the drop-out State. In this context, I draw support from the report of the Youth Unemployment Task Force, which recommends that raising the school leaving age to 17 years of age be seriously considered for the very reasons I have outlined. The problem is not so much with 15-year-olds as such—there is a high level of retention to the end of year 10—but many students leave at that point or soon after they commence year 11. Some students leave in year 11 because they get a decent job. Anecdotal evidence suggests that many leave in year 11 because SACE is considered too hard and/or the SACE curriculum offered by the school is seen as irrelevant to the potential employment of the student (that is, in relation to the many students for whom university is never a realistic option).

The fact that 30 per cent of our children are not completing their secondary schooling means that too many young people are entering the labour market without sufficient qualifications or practical experience. I believe that this is a major factor contributing to youth unemployment. All the statistical research shows that the longer young people remain in the education system, the better chance they have of getting a job; and the more qualifications they have, the more chance they have of securing a career with a future.

The purpose of this private member's Bill then is to take a step towards ensuring that young people are better qualified and skilled for entry into the labour market. Raising the school leaving age is not enough by itself. Obviously, there must be relevant and productive curriculum choices for 15 and 16-year-olds if they are to remain in the school system. Increasingly, this need is being recognised and vocational skills courses are being offered in schools such as Marden and Hamilton. In these schools, VET courses are offered which are purely vocationally oriented. In most cases, the VET courses are structured in such a way that they count towards SACE as well. At the same time, if the student decides to leave school soon after turning 16 in order to attend TAFE, courses such as this can be counted toward the post-secondary study they undertake at TAFE. This kind of flexible pathway is the way of the future in terms of the structure of our higher secondary education system.

The Bill will mean that young people must stay at school until they turn 16 years old. There are two exceptions: if a 15-year-old is fortunate enough to enter into an apprenticeship (now called a contract of training pursuant to the VEET Act of 1994), then obviously the student need not attend school. If the student cannot keep to the contract of training (in other words, the apprenticeship agreement) then the young person would be back in the position of being required to enrol in school unless they were able to find another apprenticeship. The other important exception to the requirement for 15-year-

olds to continue with their schooling is if the young person enrols in a full-time TAFE course. The full-time courses available through TAFE are generally vocationally oriented. We need to be careful not to unduly restrain young people who genuinely want to improve their job prospects by taking advantage of one of the excellent TAFE courses on offer around the State.

The reform proposed in this Bill may also be explained by reference to the current Education Act requirements in relation to children of compulsory school age. At present, compulsory schooling in South Australia is achieved in the following way: children from the ages of 5 to 15 must comply with three requirements of the Education Act (unless they have a ministerial exemption):

1. They must enrol in a school.
2. They must attend the school during school hours.
3. They must not work during school hours or be offered work which conflicts with their instruction at school.

That is provided for in the current Act. Our amendments mean that children will be required to be enrolled at school and attend school up until they turn 16, unless as 15-year-olds they have organised an apprenticeship, enrolled for full-time study at TAFE or, of course, they have been able to secure full-time employment.

It should be noted that the ministerial exemption set out in section 77 of the principal Act is unamended by this Bill. So, if someone under 16 is able to persuade the Minister of the day that they have an exceptional permanent, full-time employment opportunity, then the Minister could release them from the obligation to enrol and attend at a school. In these unusual cases where a ministerial exemption is sought, we would hope that the Minister, through the department, would seek views from both the parents and the principal of the child concerned before making any decision. Our schools must listen to parents who will always have prime responsibility for the care of their children. In reality, very few 15-year-olds are likely to be accepted into full-time TAFE courses or full-time employment (or even apprenticeships), given that there is intense competition in each of these areas.

With this Bill we are taking a step towards ensuring that young people are better qualified and skilled when they enter the labour market, and the Bill must be linked to better and more prolific vocation oriented courses being offered in our secondary schools and ultimately in the State, providing more jobs for our young people so that they are encouraged to stay at school. As I explained earlier, the purpose of introducing this Bill at this late stage of the session is to allow for some public consultation on what some people might think is a fairly controversial move. I seek leave to have the explanation of clauses inserted in *Hansard* without my reading it.

Leave granted.

Clause 1: Short Title
This clause is formal.

Clause 2: Interpretation
The definition of 'children of compulsory school age' is extended to apply to 15 year olds. The definition of 'approved course of instruction or training' is imported from the Vocational Education Employment and Training Act 1994 to cover appropriate TAFE courses. Trade apprenticeships and similar arrangements are now known as 'contracts of training'.

Clause 3: Compulsory enrolment of children
Children must be enrolled at school from the age of 6 until they turn 16, except if, having turned 15, they are engaged in a contract of training or enrolled in a full-time TAFE course.

Clause 4: Restriction on employment of children required to be enrolled
Consequential.

Clause 5: Attendance at school
Consequential (the current restrictions on employing children are reproduced in this clause, but allowance is made for the fact that there are now categories of children of compulsory school age to whom the obligations of school enrolment and attendance do not apply).

Clause 6: Powers in relation to suspected truancy
'Place of residence' replaces 'dwelling house' and allowance is made for the fact that 15 year olds may be engaged in a contract of training or enrolled at TAFE rather than enrolled at school.

Clause 7: Evidentiary Provision
This clause facilitates proof in legal proceedings, in the absence of contrary evidence: that a child was or was not engaged in a contract of training at a specified time; or that a child was or was not enrolled in a full-time TAFE course at a specified time.

The Hon. R.I. LUCAS secured the adjournment of the debate.

LEGISLATIVE REVIEW COMMITTEE: REPRODUCTIVE TECHNOLOGY ACT

Adjourned debate on motion of Hon. R.D. Lawson:

That the report of the Legislative Review Committee on the regulations under the Reproductive Technology Act 1988 be noted.

(Continued from 24 July. Page 1785.)

Motion carried.

WORKERS COMPENSATION, DISPUTE RESOLUTION

The Hon. R.R. ROBERTS: I move:

That the regulations under the Workers Rehabilitation and Compensation Act 1986 concerning dispute resolution, made on 30 May 1996 and laid on the table of this Council on 6 June 1996, be disallowed.

As the matter is under discussion with the Minister, who unfortunately is not in the country at present, I will make this contribution reasonably brief but as concise as possible. The reason the Opposition is moving this motion of disallowance is that all the practitioners who operate within the WorkCover compensation jurisdiction agree that the schedule of fees payable to worker and employer representatives is manifestly inadequate, given the most recent changes to the dispute resolution procedures provided for under the Act.

Members will recall that earlier this year, on a tripartite basis, legislation was enacted radically revamping the whole dispute resolution procedures under the WorkCover legislation. The whole emphasis behind the new procedure is greater emphasis on resolving disputes at the conciliation stage of the appeal process. The payments set out in the schedule still reflect the old dispute resolution process where conciliation was bypassed and disputes were arbitrated upon in part because that was where the major monetary payments for worker and employer representatives was made. Under the new dispute resolution process, far greater work is required of these representatives to prepare themselves properly and yet the amount of cost reimbursement is less than if they went to full arbitration, which is the very opposite result to what this Parliament intended. Also, it may lead to disputes being encouraged to go to arbitration so as to attract the higher fee costs and reimbursement.

At a recent working party meeting of stakeholders, the Minister, the Opposition and the Leader of the Australian Democrats, this issue was widely canvassed, and it was agreed that the Minister would investigate these legitimate concerns and report back to the working party. Obviously, the Minister is overseas on Government business and there has,

therefore, been no subsequent meeting of the working party. The Trades and Labor Council representative on the working party (Mr David Gray), on behalf of the UTLC, has put forward an alternative schedule of costs which basically rearranged the existing schedule to reward, so to speak, the additional workload that was required to adequately perform the conciliation work and reduce the amount paid in arbitral proceedings. This approach was approved by the representative of the South Australian Chamber of Commerce and Industry, Mr Kym Porter. It is necessary for the Opposition to move this motion of disallowance in order keep this matter under review by the Government, and it is hoped that, upon the Minister's return, a further meeting of the working party will be called together to resolve the issue, hopefully on a negotiated basis. For those reasons I ask that the Council support this motion.

The Hon. R.I. LUCAS secured the adjournment of the debate.

PLAYFORD, Hon. SIR THOMAS

Adjourned debate on motion of Hon. Carolyn Pickles:

That this Council, on the one hundredth anniversary of his birth, acknowledges the enormous contribution of Sir Thomas Playford to the development of South Australia, and his commitment to the public ownership of important community assets such as the Electricity Trust of South Australia and the South Australian Housing Trust,

which the Hon. R.I. Lucas had moved to amend as follows:

1. After 'development of South Australia,' insert 'the attraction of significant new industrial developments such as the motor vehicle industry'.
2. Leave out 'commitment to the public ownership of' and insert 'determination to establish and operate in the public interest'.

(Continued from 24 July. Page 1791.)

The Hon. SANDRA KANCK: Last week when I was speaking, I sought leave to conclude, given that we had received from the Minister for Education and Children's Services an amendment to the motion. I have looked at that amendment and, while I am happy to support the first part of it, I am not happy to support the second part of it. I will be seeking to have that amendment split in two when we come to consider it. In summing up where I am about this, as I indicated, I believe that the Hon. Carolyn Pickles's motion had its real agenda in terms of wanting to praise public ownership. In many cases, I certainly see a great need for that public ownership. Given that the Cold War is behind us, I hope that we can have debates about the merits of public and private ownership without having to go into full-scale battle. I have a suspicion that maybe part of the Hon. Mr Lucas's amendment has something to do with that as well, and I am not all that interested in being part of that.

Playford's record shows that he held a view that a mix of public and private is what would provide the best outcome for the State. It was certainly a very radical thing at the time for a Government to nationalise a private electrical company. I do not think he did this because he had any particular ideological bent, but he weighed up the merits of making the company a Government owned one in terms of what he thought would be best for South Australia. Leaving aside the sudden conversion of Labor in recent times, given the actions of their Federal counterparts—and I only need to point to the actions that they took during the time of the Keating Government to privatise the Commonwealth Bank, the Commonwealth Serum Laboratories and Qantas—the Democrats will support this motion. It is fitting that Parliament does commemorate the occasion of the one hundredth anniversary of Sir Thomas Playford's birth, to acknowledge his enormous contribution to the development of this State. He was a most distinguished leader who not only had a vision for South Australia but also the courage to challenge market forces.

The Hon. R.D. LAWSON: I certainly support that part of this motion which seeks to acknowledge the enormous contribution of Sir Thomas Playford to the development of South Australia, in particular the attraction of significant new industrial developments such as the motor vehicle industry to this State. It is fitting that, on the one hundredth anniversary of his birth, that acknowledgment be made. However, what is unseemly is the attempt to politicise this anniversary by using this motion as the vehicle to make some ideological statement—one that is in the circumstances entirely inapt. Given the wording of the motion, the mover of the motion proposes to refer to Sir Thomas Playford's 'commitment to the public ownership of important community assets such as the Electricity Trust and the South Australian Housing Trust'. In the context of this motion, that is inappropriate.

Sir Thomas Playford made a great contribution to this State, but he was no ideologue. I think one could say two things of Sir Thomas: first and foremost, he was always a member of the Liberal Party—the Party of which I am proud to be a member and represent in this Chamber; and, secondly, he was always a pragmatist. He was, as the Hon. Sandra Kanck just mentioned, not particularly interested in public ownership *per se*, but was perfectly content to adopt a pragmatic mix of public and private ownership.

The real intent of this motion is not to celebrate Sir Thomas Playford but to make an ideological statement concerning so-called commitment to public ownership. It is laughable that the Australian Labor Party should be pushing this motion, given the record of the Hawke/Keating Government in relation to the preservation of assets in public ownership.

The Hon. Carolyn Pickles interjecting:

The Hon. R.D. LAWSON: What about Qantas? What about the Commonwealth Serum Laboratories? What about the plans of the Commonwealth Labor Government in relation to telecommunications? What about the privatisation of the Commonwealth Bank? It is humbug of the Labor Party to use this motion and this occasion as a vehicle with which to push an ideological barrow.

In Sir Walter Crocker's *Life of Sir Thomas Playford*, he describes Playford as 'rock rooted', and I think that is a very apt description of Playford and, as Crocker says, 'The bandwagon was not his vehicle.' This motion is a bandwagon. The occasion of the one-hundredth anniversary of Playford's birth is being used as a bandwagon on which the Labor Party seeks to jump to make a cheap political point.

It is worth reminding the Council that when Playford came to power in 1938 BHP enjoyed access to iron ore deposits from Iron Knob. Playford, on that occasion, described—

Members interjecting:

The PRESIDENT: Order!

The Hon. R.D. LAWSON:—as 'extremely generous' the terms of access which that company had obtained to leases, virtually in perpetuity, at a very low rental. Playford's vision was to have a steelworks at Whyalla, and water was needed if that vision was to be achieved.

It is inspiring to read the way in which Playford went about obtaining the finance necessary to build that pipeline, which had advantages to both the private and the public sector. South Australia, through public activity, established the city of Whyalla effectively. The BHP company obtained access to Government assistance which enabled it to establish its steelworks in Whyalla.

In the 27 years that Playford spent as Premier he came, in my view, to epitomise what might be termed essentially South Australian values: commonsense, frugality, a suspicion of city slickers and, I might also say, a suspicion of lawyers. One would hardly say that Playford's finest hour was the Stuart royal commission, when the Government made a number of decisions which, judged by today's standards, would be seen to have been inappropriate.

Sir Thomas Playford was a very shrewd politician. His bluff and good humour was always in evidence. He was quite unsentimental. Stewart Cockburn's biography of him is a commendable description of many of Playford's great qualities. I might say that, in relation to Mr Cockburn's work, I think his biography of Playford is very good. However, his chronicle of the Salisbury royal commission, in which I played a very minor part, was, I believe, less successful. The Salisbury royal commission was the occasion on which I came to meet and have a number of conversations with Sir Thomas Playford, who was one of three South Australian Premiers who gave evidence to that commission.

Sir Thomas, in relation to that matter, regaled us all with some wonderful stories of his days as Premier of the State. The first occasion on which I met him was in 1965, shortly after his retirement, when I had organised a conference at the university. Sir Thomas came to it. He was never terribly comfortable in the presence of university students, but I think with the burden of office off his shoulders he was a most delightful and companionable man, most friendly, interested and prepared to share his experiences with the young people who met him there.

With the amendments that have been moved by the Minister for Education and Children's Services, I believe that this motion would be an entirely appropriate statement in recognition of the great contribution of Sir Thomas Playford, and I commend the amendments to the Council and the resolution, if so amended.

The Hon. CAROLYN PICKLES (Leader of the Opposition): I thank members for their contributions. It has been a somewhat curious debate. I did not think it would have caused quite so much emotion and bile on the part of the Hon. Mr Lawson, as the Opposition will support the amendments moved by the Hon. Mr Lucas. It seems to me that the Government is very sensitive about the words 'commitment to the public ownership', and I wonder why it is so sensitive to them.

The Hon. R.R. Roberts interjecting:

The Hon. CAROLYN PICKLES: That is quite true: there are no Tom Playfords over there; nor is there ever likely to be any member in the present Government who will come close to Tom Playford. The Opposition believes that it has made its point, but it did not wish to have a resolution commemorating the anniversary of the birth of Sir Thomas Playford that would cause any kind of vitriol or angst within this Chamber.

It is a pity that the Hon. Mr Lawson chose to launch a bit of an attack on the Opposition on this issue. We are very happy to support the amendments moved by the Leader of the Government in this place and urge all members to support them also.

Amendments carried; motion as amended carried.

EQUAL OPPORTUNITY (APPLICATION OF SEXUAL HARASSMENT PROVISIONS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 3 July. Page 1614.)

The Hon. SANDRA KANCK: I will be brief. This matter came up during discussions and deliberations by the committee that reported on women in Parliament. At that time we heard evidence from the then Equal Opportunity Commissioner of her belief that sexual harassment provisions applied to the Parliament, but we had evidence equally as strong to the opposite effect. I see no good reason why Parliament should have any exceptions in regard to the application of sexual harassment provisions. Sexual harassment does occur within the bounds of this building, and it is important that these provisions be applied. Parliamentarians do not deserve to be treated any differently from anyone else because sexual harassment is sexual harassment, wherever it occurs. I support the second reading.

The Hon. K.T. GRIFFIN (Attorney-General): The Bill amends the Equal Opportunity Act to extend coverage to sexual harassment by members of Parliament, members of the judiciary and members of local councils. It seeks to insert three new subsections into section 87 of the Act which deals with sexual harassment. New subsection (6a) would cover sexual harassment by a judicial officer of a non-judicial officer or member of staff of a court of which the judicial member is a member. New subsection (6b) covers sexual harassment by a member of Parliament of another member of Parliament, the member of staff of another member of Parliament (and I note that there is an amendment also to deal with sexual harassment by a member of his or her own staff), an officer or member of the staff of the Parliament or any other person who, in the course of employment, performs duties at Parliament House. New subsection (6c) makes it unlawful for a member of a council to subject to sexual harassment another member of the council or an officer or employee of the council.

The Government agrees that sexual harassment is unacceptable and that sexual harassment by members of Parliament, members of local councils and members of the judiciary should be unlawful. As the former Commissioner for Equal Opportunity observed:

> Sexual harassment is one of the most insidious forms of discrimination and can often take quite subtle forms. The incidence of sexual harassment creates an intimidating, hostile and offensive environment which negatively impacts on the productivity, personal growth and development and self esteem of victims. There is extensive literature which suggests that sexual harassment constitutes an abuse of power and authority which serves to maintain the inequitable distribution of social, economic and personal power between men and women.

That is a reference particularly by the former Commissioner in the Martin report at page 5. In late 1994 I appointed Mr Brian Martin QC to conduct a review of the Act. This review was consistent with the Government's Law and People Policy and the Women's Policy, which were released prior to the 1993 election.

Mr Martin QC provided his report to me in October 1994 and it was released in December 1994. The report contained a detailed analysis of existing legislation and of possible amendments to that legislation. Mr Martin QC stressed that the recommendations should not be considered in isolation and that further consultation should occur with interested persons and bodies before drafting any legislative amendments. Following release of the report I established a reference group with the following term of reference:

> To coordinate responses to the Martin review into the Equal Opportunity Act and to consider the consequences of implementing the recommendations.

The reference group was not expected to examine issues anew but, rather, to consider responses to the report from organisations and interested parties. The reference group has now made recommendations to me. One of the recommendations made by Mr Martin QC dealt with an extension of the provisions relating to sexual harassment to certain relationships not currently covered by the Act. The recommendation dealt with a wide range of relationships, including harassment between workplace participants; of employees of incorporated associations by members of the management committee; of staff in the hospitality industry by patrons of hotels, clubs, motels and restaurants; of employees of retail outlets and of service deliverers by customers; of hospital staff by medical consultants; and of a member of staff or student at an educational institution by senior students aged 16 years or more.

As part of his recommendation of the extension of the sexual harassment provisions, Mr Martin QC also recommended that acts of sexual harassment against staff by members of Parliament, members of the judiciary and members of local councils should be prohibited.

The Bill introduced by the Hon. Ms Pickles addresses these aspects of the recommendation made by Mr Martin QC. She has not addressed those other issues in the broader consideration of the issue of sexual harassment.

A number of submissions to the reference group commented on the possible extension of the Act to sexual harassment against staff by members of Parliament, members of the judiciary and members of local councils. While the submissions were mainly favourable, a number of issues were raised for consideration in the context of any proposed amendments.

For example, the former Crown Solicitor warned that there could be difficulties in merely extending the provisions of the Equal Opportunity Act 1984 to cover the judiciary. He advised that members of the judiciary should be protected from complaints of sexual harassment where they had made statements of a sexual nature in the presence of court staff during court proceedings, where the statements are in the context of the proceedings. He also suggested that a procedure building on the disciplinary procedures currently applicable to judges and magistrates could be used as the mechanism for dealing with complaints of sexual harassment.

Further, while the judges of the Supreme Court and District Court did not oppose the extension of the Act, they cautioned that a clear distinction would need to be drawn between—

The Hon. Carolyn Pickles interjecting:

The Hon. K.T. GRIFFIN: The amendments do not address the issues, and I will deal with those when we get to them. They caution that a clear distinction would need to be drawn between acts by judges in a personal capacity and things said or done by a judge in an official capacity while sitting in court or in chambers.

The judges acknowledged that it would be unlikely that a complaint by court staff against a member of the judiciary could relate to the discharge of strictly judicial functions. However, they considered it to be an area in which caution is required so as to ensure that the discharge of judicial functions is not subject to external control or investigation.

The judges also suggested that documents and papers relevant to the discharge of functions should not be liable to seizure or inspection. This would put the judicial officers in the hands of inspectors or officers appointed by the Executive arm of Government. I understand that the Chief Justice has conveyed these concerns to the Hon. Ms Pickles, and I notice that as of today she has on file some amendments which seek at least to reflect the views expressed by the Chief Justice.

However, as I said in response to an interjection earlier, I do not think those amendments adequately address the issues and certainly do not attempt to address the issues in relation to members of Parliament. Problems could also arise from the extension of provisions to cover members of Parliament as issues of parliamentary privilege would need to be considered. The Speaker of the House of Assembly and President of the Legislative Council advise that they give their wholehearted support to the principles embodied in the proposal. However, they advise that this area, along with many others, are adequately covered by privilege and the sanctions which follow abuse of that privilege. They are advised that it is a well established principle that Parliament regulates itself and is not answerable to other courts or tribunals for its actions. They advised that, while including a provision in legislation about harassment in itself may be of small moment, it is that principle itself that would need to be addressed.

The reference group considered the extension of the Act to cover acts of sexual harassment by members of the judiciary and members of Parliament. However, it agreed with Mr Martin's view and the views expressed in some submissions that any amendment would need to reflect the special constitutional position of these office holders. The reference group recommended that due attention should be given to the independence of the judiciary and Parliamentary privilege in the preparation of amendments. Therefore, while the Government supports the principle of extending the Equal Opportunity Act 1984 to cover sexual harassment by members of Parliament, members of the judiciary and members of local council, it considers that there are a number of issues which should first be addressed.

The Bill introduced by the Hon. Carolyn Pickles does not provide any special procedures for dealing with complaints made against members of Parliament or members of the judiciary although, as I have noted, there are some amendments relating to members of the judiciary, but I do not believe that they go anywhere near addressing the particular problem. In addition, the Bill goes further in another respect than the recommendations made by Mr Martin QC in that it covers sexual harassment by a member of Parliament against another member of Parliament and by a council member against another council member. Mr Martin QC based his recommendations regarding sexual harassment on the issue of power inequality. He indicated that:

> While there is always room for exceptions in my view the South Australian legislation should continue to concentrate upon covering those areas of public life where a power inequality is likely to exist and to result in unfairness to the person harassed.

That is at page 15. Mr Martin QC points out that members elected to Parliament and local government bodies are ultimately answerable to the electors. In his view:

> They are in a different position from the normal workplace participant. They are frequently adversaries in the public eye. Other means of coping with offensive behaviour are readily available and there are dangers associated with an attempt to intrude into these relationships.

He makes that reference at page 18 of his report. The Government considers that care needs to be taken in extending the Act to cover sexual harassment by a member of Parliament against another member of Parliament and by a council member against another council member. Further, we must ensure that there is a proper process for dealing with sexual harassment by judicial officers and members of Parliament, taking into account the special nature of the positions. A protocol and processes to resolve any complaint would need to be developed.

Issues such as the Commissioner requiring attendance or production of documents would need to be addressed. They are particularly important because, where there is power to acquire attendance before the Commissioner, whether it be for conciliation or any other purpose, and ultimately before the Equal Opportunity Tribunal, that may be construed as being an attempt by the Executive arm of Government to interfere in one instance with the independence of the judiciary but, in relation to members of Parliament, with aspects of parliamentary privilege. It is being dealt with in the Workers Compensation and Rehabilitation Act in relation to access by inspectors appointed under that Act and the way in which that Act relates to matters that occur within the precincts of the Parliament and which are under the authority of the President and the Speaker respectively.

Some of those issues have also been considered in the context of section 24(2) of the Parliament (Joint Services) Act of 1985, which provides that, subject to the section, the provisions of the Equal Opportunity Act 1984 extend to the employment of any person in any capacity under the Act. The provisions apply as if a person so employed were an employee and the Joint Parliamentary Service Committee the employer. Subsection (4) provides that the committee as employer cannot be required to attend at any proceedings, conference and so on, or be required to answer any question or produce any documents. An order made on the determination of any matter under the Equal Opportunity Act 1984 may have effect on the resolution of the committee.

The Hon. Carolyn Pickles: How do they get justice?

The Hon. K.T. GRIFFIN: They do get justice. The procedure is quite clearly there.

The Hon. Carolyn Pickles interjecting:

The Hon. K.T. GRIFFIN: If that is not working, that issue ought to be addressed. The Parliament (Joint Services) Act of 1985 does not deal particularly with members of Parliament but with staff. If there are issues relating to that Act, in so far that there are persons under its jurisdiction, we ought to know about them and ought to be able to try to sort them out. In respect of that Act there is a process which recognises the peculiar nature of employment within the precincts of the Parliament. I have indicated that in relation to the Workers Compensation and Rehabilitation Act where there is a special recognition of the constitutional position of the Parliament and the members of Parliament. I am saying that in respect of the broadening of the scope of this legislation I do not think that the issues have been adequately or properly addressed in the honourable member's amendments, and we may get to those.

It must be remembered that this Bill deals only with one small part of the recommendations made by Mr Martin QC, even in respect of issues relating to sexual harassment. The Government would prefer an approach whereby the recommendations made by Mr Martin QC are dealt with as a package rather than on an *ad hoc* basis. To this end drafting instructions—

The Hon. Carolyn Pickles: Well, do it.

The Hon. K.T. GRIFFIN:—are being finalised to implement some of the recommendations made by Mr Martin QC. Once a Bill is drafted and considered by the Government I would propose to send it out for public comment. I would then hope to have legislation introduced in the spring sitting of Parliament, regardless of the outcome of this Bill.

Therefore, in summary, I advise the Council that the Government supports in principle the extension of the Equal Opportunity Act 1984 to cover sexual harassment by judicial officers, members of Parliament and members of the Council. However, the Government is concerned that this Bill only deals with part of one recommendation made by Mr Martin QC, is too wide in its coverage in relation to members of Parliament and local councils and may cause problems as a result of extending the Act without proper attention being given to the process for dealing with complaints against members of Parliament and members of the judiciary in view of their special constitutional position in our democracy.

That is the Government's position. It is clear support for the principle and an indication of the way in which we propose to deal with this. The Hon. Carolyn Pickles interjected, 'Why don't we get on and do something?' I do not think she really realises how much consultation had to occur as a result of the recommendations of the Martin report. It is all very well to sit in Opposition and say, 'Do something'. In Government we are endeavouring to do something responsibly. There was wide consultation with the trade union movement, employers and a whole range of people in relation to both the development of the Martin report and the reference group.

The Hon. Carolyn Pickles: No members of Parliament were invited to give evidence.

The Hon. K.T. GRIFFIN: A public notice was given. I cannot help it if members do not respond to it. I made press releases. The Opposition gets my press releases.

The Hon. Carolyn Pickles: You have not taken any notice of the select committee recommendations.

The Hon. K.T. GRIFFIN: It is a source of some concern and frustration. The Government is endeavouring to act with a measure of good will to consult widely and deal with this whole issue. The honourable member has dealt with only one part of the law relating to sexual harassment.

The Hon. Carolyn Pickles interjecting:

The Hon. K.T. GRIFFIN: I do not disagree. I am as strong as anybody in my opposition to sexual harassment, whether by members of Parliament, the judiciary or anybody else. I am indicating that the Government is endeavouring to bring together a comprehensive piece of legislation which deals not only with those issues identified by the honourable member's Bill, but a wider range of issues dealing with sexual harassment and other matters relating to equal opportunity. It is not easy to bring together diverse points of view. Judgments have to be made about the way in which the

Government will address particular issues of some complexity, but we are determined to do it.

I want to put on the table the Government's position in relation to the honourable member's Bill. She is entitled to bring the Bill forward, and I am not being critical of that at all. Indeed, I am supporting the principle of the Bill, but I am also indicating that there is a broader context in which issues which need to be addressed have not been addressed and which could properly be dealt with in a more comprehensive piece of legislation. I do not know what the honourable member wishes to do. If she wishes to push on, I will not oppose the Bill, but it will not be addressed in the Assembly until the Government's Bill is introduced into the Parliament.

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

OBSTETRIC SERVICES

Adjourned debate on motion of Hon. Sandra Kanck:

That the Legislative Council requests the Social Development Committee to examine, report on and make recommendations about obstetric services in rural areas, in particular—

1. access by women living outside the Adelaide metropolitan area to obstetric services;
2. the costs of medical indemnity insurance for city general practitioners as opposed to country general practitioners with or without obstetrics loading;
3. the rates in South Australia for medical indemnity insurance compared with other States;
4. the role played by our State Government and the role Governments play in other States in regard to the negotiating and brokering of medical indemnity insurance;
5. the contributing role of the legal profession and court system in causing medical indemnity insurance to rise in the first place and to determine whether or not legal payments should be capped in the case of medical malpractice; and
6. any other related matter.

(Continued from 24 July. Page 1792.)

The Hon. DIANA LAIDLAW (Minister for Transport): In moving the motion, the Hon. Sandra Kanck has relied considerably on several discussion papers prepared as part of the Commonwealth's review of professional indemnity arrangements for health care professionals. Earlier this year the Commonwealth formally released the final report of that review and consideration was given to the process for managing its recommendations at the recent Australian Health Ministers Council.

The professional indemnity review made many recommendations about measures to limit adverse patient events. These matters are to be considered by the task force on quality in Australian health care. Recommendations from the report dealing with medical indemnity addressed issues such as the prudential requirements for medical indemnity organisations and structured settlements. It was agreed by the Health Ministers that the Commonwealth would convene further discussions with the stakeholders.

In addition to these pending national initiatives, it is important that we continue our efforts in South Australia to address a number of service delivery issues that arose from the dispute in the South-East. To that end the Government has established a review of medical services in the South-East to report on the current distribution and supply of medical services in the region, with particular reference to GP and specialist obstetric services. The honourable member will be aware that in this context the availability of doctors in rural areas is a major problem not only in South Australia but throughout Australia.

I recall visiting Wudinna on Eyre Peninsula with the Hon. Caroline Schaefer about 2½ years ago and people were talking about the fact there was no doctor or pharmacist in Wudinna. This was of considerable interest to me. While we were having consultations with women, I would normally have expected similar consultations in the metropolitan area about access to a woman doctor. However, people in the country were not concerned about the gender of the doctor; they just wanted a doctor. This has been a problem of considerable standing for a long time throughout Australia, and it is associated not only with obstetric services but with general practice services as well.

The review of medical services in the South-East, to which I have referred, was canvassed with doctors in the region. The Minister for Health reports that Dr David Senior, the Chairman of the South-East Medical Association, is happy to support and be a key member of the steering committee established to direct the review. The steering committee will be chaired by Mr John Drew, the Chairman of the South-East Regional Health Service Board, and its membership includes Dr Senior, who I indicated earlier is the Chairman of the South-East Medical Association; Dr John Foley, Director of Medical Services at the Mount Gambier Hospital; Dr Michael Jelly, Chief Medical Officer of the South Australian Health Commission; and Mr Ian Dunn, Regional Director, Southern, Country Health Services Division of the South Australian Health Commission.

The Hon. Sandra Kanck: Is there a woman on it?

The Hon. DIANA LAIDLAW: No, there is not. As I indicated earlier, people in country areas are concerned only to get a doctor; gender is not the most critical point. This committee, which is made up of health professionals in the South-East, is to review GP and specialist obstetric services. The review committee reflects those specific skills. While it may be ideal to have a woman on the committee, that is not so at this time.

I am further advised that Mr Chris Overland, the General Manager of the South-East Regional Health Service and the Mount Gambier Hospital, will act as Executive Officer to the committee. Additionally, Dr Peter Brennan, a past President of the Royal Australian College of Medical Administrators and former CEO of the Health Department of Western Australia, will provide consultancy services. Dr Brennan's standing and experience will be of great assistance to the review. In fact, Dr Brennan will be in the South-East on Thursday and Friday this week to prepare the scope of the review, and it is expected that the steering committee will have its first meeting in the next few weeks.

I can also advise honourable members that the Government has given a clear commitment that the recommendations from this review will be given serious consideration, even if they involve further resource commitment. The honourable member will appreciate that so many issues face the Government at this time that, even subject to review, it cannot guarantee at an early stage that there will be a commitment to resources in relation to these recommendations, but that is the level of commitment that has been made. Given the broad nature of the review, it is possible that it may have implications for the provision of medical services in other country areas of the State, not only the South-East where this review is being conducted.

The Government has also been active at a State level in the professional indemnity area. It has established a working

party on legislative change to examine the existing legislative framework and to make recommendations for change which will ease the financial burden of these claims on the community whilst retaining a compensation mechanism that fairly meets the needs of those who have genuinely suffered injury as a result of negligent care. This group is chaired by Mr Chris Boundy, a partner of LADD Australia. LADD is the South Australian Health Commission's contracted consultant to manage our professional indemnity program. The other members include: Mr Allan Hunter of the Medical Defence Association of South Australia; Mr Ian Shephard, the Assistant Crown Solicitor; Dr John Emery of the Australian Medical Association; Dr Leon Stern, the Director of the Regency Park Centre; and Mr John Markic of the South Australian Health Commission. The working party first met in May, and it is expected to undertake its work over the next few months. I note that this committee has no women representation.

This Government is strongly committed to the continued provision of high quality services for women in country areas and that those services be provided in their local area. The initiatives mentioned above will ensure that this Government is able to continue that commitment. As the Government believes that these matters are of a national nature and must be addressed as national initiatives, because a review is under way in the South-East in terms of GP and specialist obstetric services, and because there is a working party on legislative change in respect of the professional indemnity program, I argue that the matters proposed to be referred to the Social Development Committee are already being covered on a national and State basis. However, I appreciate that this motion to refer these matters to the Social Development Committee will pass with the support of the Labor Party.

It is, therefore, the Government's intention to move amendments to paragraphs 4 and 5, because, whilst it does not believe there is a need for such a reference, if it must pass the Government believes that a number of matters relating to indemnity insurance and the legal profession should be addressed in a manner that better reflects the nature of the problems in the community and the review that is already under way. I understand that these amendments will be moved by the Hon. Angus Redford.

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

FAIR TRADING (MISCELLANEOUS) AMENDMENT BILL

Returned from the House of Assembly with amendments.

MOTOR VEHICLES (TRADE PLATES) AMENDMENT BILL

Returned from the House of Assembly without amendment.

CRIMINAL INJURIES COMPENSATION (LEVY) AMENDMENT BILL

The House of Assembly requested a conference, at which it would be represented by five managers, on the Legislative Council's amendments to which it had disagreed.

The Legislative Council agreed to a conference, to be held in the Legislative Council Conference Room at 6 p.m., at which it would be represented by the Hons M.J. Elliott, K.T. Griffin, Carolyn Pickles, R.D. Lawson and P. Nocella.

OBSTETRIC SERVICES

Adjourned debate on motion of Hon. Sandra Kanck (resumed on motion).

(Continued from page 1903.)

The Hon. A.J. REDFORD: I move to amend the motion as follows:

1. Delete paragraph 5 and insert new paragraph 5 as follows:
   5. improvement in the claims management and work practices by the medical profession with a view to reducing the number of claims and therefore reducing the cost of medical indemnity insurance.
2. Insert new paragraph 5(a) as follows:
   5. (a) the role of the legal system and its effect on the cost of medical indemnity insurance.

I move this amendment in the light of the indication by the Opposition that it will support this motion. I hope that my amendment will clarify and assist the Social Development Committee in its deliberations. I have some sympathy with the sentiments expressed. I believe this is an important issue. I have taken into account the matters raised by the Minister in her response, and I hope that the strategies adopted by the Minister for Health in dealing with this vexed and difficult issue will lead to some resolution of the difficulties associated with obstetric services in rural areas.

I wish to make three comments regarding this issue. My first comment is perhaps a suggestion, even a forlorn suggestion from the Government backbenchers in the Upper House. I query the value of the working party on legislative change that the Minister has appointed in that it appears to be comprised substantially of people who may well be said to be more interested in keeping down premiums as opposed to providing a fair compensation system for people who are suffering as a consequence of medical negligence while keeping premiums down at the same time. I personally know three members of that working party. I have the utmost respect for these people, but one of them is a risks manager engaged by the Health Commission which, one would assume, would have the single purpose of keeping premiums to their lowest level, and another is a member of the legal profession who acts for the Medical Defence Union, whose principal interest I am sure would be to keep premiums down.

There are, of course, other stakeholders. There does not appear to be anyone who would directly represent the interests of consumers in the health system. I note that they are to examine the existing legislative framework. I hope that the Minister has taken the trouble to send to all these people the substantial numbers of reports prepared over the years by various law reform commissions and by the Legal Services Commission, as well as various other reports. I know that I have read at least seven or eight of them, from both Australia and overseas, which refer to the capping of damages awards and the like. One would hope that each of the members of this working party will receive a copy of each of those reports.

I hope that the Minister will refer to them some of the consequences that have been visited upon workers as a consequence of the previous Government's decision to remove the right to common law claims to workers, and the consequent effect upon them and the losses that they have suffered. I would hope that this working party is also mindful of the consequences in that regard. So at the end of the day, when this working party does provide the Minister with a report, it cannot possibly be criticised for presenting only one

side of the argument. I would have to say, knowing the Minister as I do, that I am sure that he will take that into account and will ensure that it will be a balanced series of recommendations, taking into account the consumers' interests.

I might also say that it would appear to me to be an appropriate time for the AMA to look seriously at the scheme that the legal profession has in relation to its professional indemnity insurance and the sorts of strategies adopted by the legal profession to reduce the number of claims. For members who are not familiar with the process, it is a compulsory scheme—and I must say that I do not necessarily agree with that aspect of it—in which the insurers work very closely with the profession in terms of claim and practice management. Indeed, the insurers have a consultative committee with legal practitioners whereby they consult on a very regular basis as to claims management and the practice of lawyers to ensure that the number and incidents and extent of claims is minimised. I would have to say that that works very well. I am not sure that the AMA medical insurance has the same sort of mechanism. I would invite the working party, the Minister and the AMA to seriously consider the scheme that is being promulgated by the Law Society in this State—and, indeed, which is copied in other States—on this topic of medical insurance. I am sure that the Law Society would provide assistance in that regard to the relevant people.

Finally, as a South-Easterner, I think it would be remiss of me not to make a comment about some of the issues that arise in the context of the difficulties that the obstetrics professionals are having at Mount Gambier. I note that it has been said on occasions that they appear to be the only obstetric professionals standing out, that the rest of the country obstetrics and medical professionals in this area have agreed to the Minister's proposals. I know that the Minister will not simply dismiss the complaints and the concerns expressed by the South-East practitioners because they happen to be standing out alone. I am very confident that the Minister will seriously consider every one of their complaints, and the Minister will take on board their complaints and deal with them in a methodical, calm and rational manner.

The Hon. SANDRA KANCK: I indicate that I will not be opposing the amendments that the Hon. Angus Redford has moved. I note that he has removed the reference to capping of payouts, although, of course, I do not think that that will necessarily prevent any witnesses or people who are presenting submissions to the committee from addressing it.

The Hon. A.J. Redford: It is certainly not intended to do that.

The Hon. SANDRA KANCK: No, and I still believe it to be an important issue. You have only to look at the payout—although it is in a different sphere in terms of motor vehicle accidents—that was made to the actor John Blake and the impact that will have on our third party premiums to see the importance of having capping on some sorts of legal payouts. I was certainly pleased to hear from the Minister for Transport about the existence of this working party that has been set up. It is obviously very much needed. I will be looking forward to hearing the results from that. I suspect that whatever its results, it will have implications for all rural areas in South Australia.

As a Social Development Committee member, I am certainly looking forward to hearing more on this matter. As the Democrats' health spokesperson, I have done a lot of work researching it, but I am sure that I have probably only touched the surface. By having the Social Development Committee investigate it, we will learn a lot about the issue, and we will be able to sort out the emotion from the facts. Similarly to my observations about the working party that is being set up, I suspect that, although the Social Development Committee will be looking at the issue of rural obstetrics, we may find other issues such as the lack of a pharmacist in some country towns may well come up. So, again, this issue, when it is reported on by the Social Development Committee, will have implications for health in probably many aspects across rural areas in South Australia, and I am delighted to have the support of the Legislative Council in moving this to the Social Development Committee.

Amendments carried; motion as amended carried.

HOUSING TRUST WATER LIMITS

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

That the regulations made under the South Australian Housing Trust Act 1936 concerning water limits, made on 28 March 1996 and laid on the table of this Council on 2 April 1996, be disallowed.

(Continued from 24 July. Page 1792.)

The Hon. DIANA LAIDLAW (Minister for Transport): As background, I advise that in December 1994, SA Water, then the EWS Department, moved to a full user pays system for water consumption. In March 1995 Parliament passed an amendment to the South Australian Housing Trust Act which clarified that tenants are responsible for water charges above a certain usage per year. The allowance at that time was set by regulation at 130 kilolitres, being the first tier of the SA Water pricing structure. It came into effect on 1 July 1995.

Tenants living in properties without separate meters, mostly in flats and units, are not required to pay for the water they consume. Over 80 per cent of the trust's tenants pay income-based reduced rents and receive substantial rental subsidies. The trust should not be required, in the Government's opinion, further to subsidise tenants for their water usage. I repeat an earlier statement that tenants living in properties without separate meters, that is, mostly flats and units, are not required to pay for the water they consume. So, the subsidy for tenants' water usage is considerable on taxpayers generally, whereas other trust tenants and other people renting in private accommodation do so pay.

In terms of the change to the water limit at this time, I advise that as the landlord, the trust is charged for water by SA Water in the same way as any other property owner. On 16 November 1995, SA Water announced increases in the price of water for 1996-97, the access fee being increased by $5 to $118 per property. The first tier of consumption was reduced from 136 kilolitres to 125 kilolitres, and the charge per kilolitre for this tier increased from 20¢ to 22¢. The South Australian Housing Trust pays the $118 access fee for all trust properties, and the additional cost to the trust for the $5 increase per property in 1996-97 is around $225 000.

If the difference in the cost between the 125 and 136 kilolitres is not passed onto tenants in separately metered properties, the additional cost to the trust in 1996-97 will be approximately $430 000. That figure is reached by multiplying the trust's 44 000 tenants by 11 kilolitres, and multiplying that figure by 89¢ per kilolitre. Therefore, the additional annual cost to tenants on separately metered properties will be $9.79 for the 11 kilolitres difference between 125 kilolitres

and 136 kilolitres, the latter figure being the old limit. My brief calculations suggest that that is 2.5¢ per day.

The Hon. R.R. Roberts interjecting:

The Hon. DIANA LAIDLAW: No, I did it myself; that is why I think it is right. What I do know is right is that the additional cost to the trust is $430 000, if we do not seek to take the step as outlined in the regulations. Trust tenants who receive amounts of water usage and who have outstanding accounts may make arrangements to pay the debt in instalments by contacting their housing manager. Those tenants receiving pensions and benefits may have their payments deducted by the Department of Social Security under the Trust's EasyPay scheme.

The Hon. Sandra Kanck indicated that issues of water conservation measures were of importance to her in determining a view on the motion before members. She was very interested to know and have confirmed the range of conservation measures being undertaken by the trust to help tenants live within the new limit of 125 kilolitres. I think the arguments are compelling, or at least should be, in convincing the honourable member of the range of measures being taken by the trust.

The trust has adopted a number of practices to assist tenants to reduce their water consumption and to conserve water. All toilet cisterns installed by the trust, whether in new housing or as replacements in existing houses, are now dual flush designs. The newest advance in cistern design, which I understand is the 3/6 litre dual flush, will be used from July 1996.

That is not only the newest advance in cistern design but also is a smaller cistern, which therefore uses less water, whether it be used as dual or full flush. Flow-rated shower heads are used in all new and replacement installations in trust houses. All new and replacement laundry troughs are of the sudsaver type.

Water leaks, including leaking tap washers, are treated as high priority maintenance items and are repaired within 24 hours of reporting by tenants. New houses are generally sited on smaller allotments with reduced front and rear gardens. All members who take an interest in this matter would also be aware that front yard landscaping to new housing is focused on reduced water requirement with minimum lawn area, featuring bark cover and shrubs with dripper irrigation systems.

Common areas in trust medium-density developments are being progressively dry garden landscaped. Further, I can confirm that existing trust properties are being reviewed for land harvesting potential, providing opportunities for additional housing and reduced allotment sizes. The trust's garden competition also encourages the development of dry gardens by tenants for entry in the well-publicised section of this competition.

So, the range of measures being undertaken are considerable, covering as they do gardens, taps, shower heads and toilet cisterns, and are backed up by urban consolidation initiatives such as smaller allotments and smaller garden areas, confirming the value of the water conservation measures that the trust is undertaking.

These measures, of course, reinforce the reasonableness of the measure before us, that is, the regulation to reduce tenants' water allowance to 125 kilolitres before payment is due. It is important in looking at this issue to make a comparison with the private rental sector. In this regard, private landlords and tenants are covered by provisions set out in the Residential Tenancies Act and are able to negotiate individual agreements for water payments. Currently, in the absence of an agreement, landlords are required to pay the cost of the tenants' water consumption up to 136 kilolitres.

For the reasons I have outlined, I believe it is fair and reasonable that members do not vote to disallow this regulation. If the majority of members do so, I can confirm that this regulation will be regazetted immediately, hopefully tomorrow.

The ACTING PRESIDENT: The next speaker listed to speak on the motion is the Hon. Mr Elliott.

Members interjecting:

The ACTING PRESIDENT: The Hon. Ron Roberts.

The Hon. R.R. ROBERTS: Far be it from the Opposition to deny democracy in this place. On other occasions when members on the list have been denied an opportunity to speak, and that has been revealed, there has been a great hue and cry.

The Hon. Diana Laidlaw interjecting:

The Hon. R.R. ROBERTS: Thank you for that valuable contribution. I rely on the President or Acting President and, when I am advised that the President has a list, I believe he wishes to stick to it. I thank members for their contributions, especially the Hon. Sandra Kanck for her contribution last week—

Members interjecting:

The Hon. R.R. ROBERTS: I certainly did. I found out when she told me that she was going to support the motion for disallowance. I am disappointed in the response by the Minister for Transport on behalf of the Government. She talked about the Housing Trust's implementing water conservation measures, and they are to be applauded. The Minister also pointed out that the tenants will have smaller properties to live on, etc., and those points are all laudable.

The Minister also talked about competitions, but that has nothing whatsoever to do with the fact that the Government has given a commitment to the Housing Trust that access would be at a certain level, which the Government has now reduced. I was particularly disappointed but not completely surprised to hear that once again this Government is prepared to ignore the Legislative Council.

Yesterday, we heard a pious speech from the Leader of the Government in this Council saying how glad he was to be a member of the Legislative Council. At that time all members agreed with him. He has made many speeches and this Government has made great play on the independence of the Legislative Council and what an honourable House it is. By and large, I would agree with the Government, except when it cannot get its own way, as was the case during the Estimates Committee when another Minister in this Government, when asked about a regulation that had been knocked over on two occasions by the Parliament, responded with an arrogant and outrageous comment, 'Only by one House of Parliament.'

If the Government wants to be contemptuous of the Legislative Council, let it reveal itself. The Government should not come in with this hypocrisy about respect for the Legislative Council and then, when summing up about a regulation subject to a motion for disallowance, say, 'We do not care how you vote; we are going to introduce the measure again tomorrow.' This shows the absolute disrespect of the Government for constituents in South Australia, and especially, once again, for the weak and those who cannot fight. People in Housing Trust accommodation are going to be abused once again by this Government.

Let the Government fly in the face of the parliamentary system. It can arrogantly say, 'We have the numbers in the Lower House and we will do what we like.' Let the Government answer to constituents. Certainly, I thank the Hon. Sandra Kanck for invoking the democratic principle in relation to keeping certain people honest. I am pleased that she has taken that principle into consideration once again. I thank her for her indication of support on behalf of trust tenants in South Australia who are entitled, when they are told that the Government will do one thing for them, to expect that it will occur and not be unilaterally and arrogantly overridden because the Government has the numbers and the Executive Government can reinstitute the regulation the next day.

This Government is making an art form of abusing subordinate legislation in South Australia. We have seen it with fishing and we are seeing it again now. This will not be the last example that we will see from this arrogant Government, which is prepared to abuse the parliamentary system. It is prepared to laud the Legislative Council when it reinforces the Government's legislation but, when the majority of this democratically elected Council makes a decision the other way, the Government contemptuously and offensively abuses the system and says, 'We are going to do it again tomorrow.' Let the Government do it.

I am not a coward like the Government is. Every time the Government brings the regulation forward I will move for its disallowance, and I will rely on the honour of the Democrats, who have demonstrated on many occasions that they do respect the Legislative Council. I hope that we will act in concert to stop the Government from abusing trust tenants and other minority groups in South Australia. I thank members for their contributions.

The Council divided on the motion:

AYES (10)

Cameron, T. G.	Crothers, T.
Elliott, M. J.	Holloway, P.
Kanck, S. M.	Nocella, P.
Pickles, C. A.	Roberts, R. R. (teller)
Roberts, T. G.	Weatherill, G.

NOES (9)

Davis, L. H.	Griffin, K. T.
Irwin, J. C.	Laidlaw, D. V. (teller)
Lawson, R. D.	Lucas, R. I.
Pfitzner, B. S. L.	Redford, A. J.
Schaefer, C. V.	

Majority of 1 for the Ayes.

Motion thus carried.

LEGISLATIVE REVIEW COMMITTEE: MEMBERS' CONDUCT

Adjourned debate on motion of Hon. R.D. Lawson:

That the discussion paper of the Legislative Review Committee on a code of conduct for members of Parliament be noted.

(Continued from 5 June. Page 1526.)

Motion carried.

FISHING, NET

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

That the regulations made under the Fisheries Act 1982 concerning ban on recreational net fishing, made on 18 April 1996 and laid on the table of this Council on 28 May 1996, be disallowed.

(Continued from 29 May. Page 1444.)

The Hon. K.T. GRIFFIN (Attorney-General): To some extent this is a repeat of earlier debates so, to a very large extent, I will rely upon those matters I have raised on previous occasions. There is a ban on all recreational net fishing in all the marine waters of South Australia, and that is an approach which I understand the Conservation Council of South Australia has supported. I am informed that recreational net fishing is not consistent with the national policy on recreational fishing where active participation is required and where only sufficient fish for immediate requirements should be taken.

Studies have shown that gill nets can be at least twice as devastating as line on species such as tommy ruff, salmon, mullet, yellow fin whiting and even King George whiting. A recent scientific workshop, in July 1995, discussed the status of salmon and tommy ruffs and concluded there was considerable concern over poor recruitment of tommy ruffs in particular over the last four or five years across southern Australia. I have the report of that workshop. I do not think I need refer to it, except that in a number of jurisdictions reference is made to the declining fish stocks and the concern that that will be of a permanent nature.

In addition, salmon are considered to be fully exploited across the range of this species, through Tasmania, Victoria, South Australia and southern Western Australia. It should be noted that South Australia is the major nursery for these two species across southern Australia, and gill nets target only the juvenile of these species. In general, recreational net fishing is relatively non-selective in terms of species taken and the size of fish caught. Unlike line fishing, fish that are undersized or over the permitted bag limit cannot be returned live and healthy.

Previous restrictions on registrations of recreational nets were considered inappropriate and inequitable, and that was the reason the Government took the decision to place the prohibition on recreational net fishing. The regulations originally were the subject of an inquiry by the Legislative Review Committee, and in December 1995 it brought down its report. It recommended that those regulations should remain in force. The regulations were disallowed by the Legislative Council on 3 April. On 4 April, the Government did reintroduce the regulations in two parts, recreational netting prohibition and commercial netting closures plus the size limit on King George whiting.

On 11 April, the recreational netting prohibition was again disallowed, and these regulations, which are now the subject of this disallowance motion, were subsequently reintroduced by the Government on 18 April 1996 because, on the advice which we had received, there was a need to maintain the prohibition. So, relying on the earlier debate and on the material which, on this occasion, I admit is not in significant depth, the Government is of the view that the netting restrictions ought to remain and that the disallowance motion ought not be carried.

The Hon. M.J. ELLIOTT: The Hon. Ron Roberts, in speaking to an earlier disallowance motion, made comment about the arrogance of the Government in terms of regulations which are disallowed and which are immediately brought back into force, and I understand that that threat was made in relation to an earlier disallowance motion. There have been already two disallowances of regulations in relation to net fishing. On each occasion, the regulations were reintroduced immediately at the next opportunity.

We have almost a year of history in relation to this issue now, with the Government first promulgating its regulations on 31 August 1995. The Hon. Ron Roberts moved a disallowance motion on about 26 September. In fact, I did not speak to that motion for some two months. I want to remind the Government of what I had to say then. On the first occasion that I spoke, I said I did not intend to speak in favour of or against the motion. I did state that I thought it was unfortunate that the regulations combined a large number of issues in relation to both professional and amateur fishermen, so that a large number of what could have been separately treated issues were all caught up together. I do note that subsequently the Government separated the regulations in relation to professional and amateur net fishermen.

I also said that, if the fish populations are at real risk because of netting, clearly I would support a tightening of the regulations. I was critical at that point that the Government had not revealed publicly the evidence to show that its regulations on recreational netting are justified. It is also worth noting that the Government has been getting fees from recreational netters of around $300 000 a year. What has it been doing with that $300 000? Why has not some portion of that been spent on looking at questions as to the impact of netting? That would be a criticism of not only the present but also the past Government. Inadequate work was going on into the populations of various fish species and this was not a bad milk cow bringing in $300 000 or possibly more a year, because at one stage there were 15 000 recreational netters. That number dropped to about 5 000 late last year.

During that contribution I noted that fisheries could collapse rapidly and I gave the example of the Atlantic cod fishery—a fishery that was having near record catches but within two years those record catches had collapsed totally. A question mark remained whether it would ever recover again. I had hoped at that time that I could speak after the Government had made a contribution, but here we were on the last sitting day of that session and the Government had not spoken. So, I got up at that stage to speak to the motion—not for or against it—and to make a strong plea to the Government to, for goodness sake, come into this place and bring the evidence to support the regulations. That is all I asked for at that point.

Having spoken to the motion, I was not able to speak again but the Hon. Sandra Kanck spoke on behalf of the Democrats on 3 April 1996. Again her contribution started:

> The Australian Democrats' first concern in this debate will always be for the health and proper management of South Australian fish populations. The fish populations are at real risk because of netting. The Democrats would clearly support a tightening of the regulations.

Again we could not have given a clearer plea to the Government to bring the evidence into the Parliament. The Government did not and so the second disallowance occurred. Again we were reiterating the plea to bring forth the evidence. A disallowance was passed and within days the Government had promulgated the regulation again. There is no doubt that my personal bias is probably against net fishing. It is now effectively a restricted access fishery. I cannot go and get a licence. Nobody inside or outside this place who does not currently have a licence can get one. About 5 000 people have the right to net fish and over one million people do not have the right to net fish. That is a fairly privileged position to start off with.

The Hon. T.G. Roberts: You can set one for your grandfather.

The Hon. M.J. ELLIOTT: Yes. My father actually passed in his licence. I have a personal bias—and will state it quite clearly—of concern and I do believe there is potential. However, I would have thought that evidence should have come into the Parliament. I had subsequent meetings with the Minister and again indicated that I wanted evidence after the second disallowance was passed. I had assurances that I would get information. I ended up getting a list of 13 people that I should write to because they could give me some information. I was told that I should write a letter to these people. I drafted a letter and wrote to those 13 people and asked them to tell me what they knew about the situation.

The Hon. K.T. Griffin interjecting:

The Hon. M.J. ELLIOTT: About six or seven of them.

The Hon. Caroline Schaefer: I know you got some letters from other people to whom you did not write, too.

The Hon. M.J. ELLIOTT: Well, if I already have submissions from them, then I have those submissions. I asked the Government to provide evidence and it said, 'Here are the names of 13 people to whom you can write to provide you with evidence.' The West Coast Professional Fishermen's Association wrote back and expressed a strong view about net fishing. It is opposed to professional as well as amateur net fishing, and understandably so. The Conservation Council wrote back and I am not surprised that it was opposed. It raised the issues of equity and concern about how secure the populations are. I had a letter also from the National Executive Director of RecFish Australia, which is a peak body representing the Australian Anglers Association, the Australian Freshwater Fishermen's Assembly, the Australian National Sports Fishing Association, the Game Fishing Association of Australia, Native Fish Australia, the Australian Underwater Federation, a Victorian recreational fishing peak body, and peak bodies from each of the States, including the South Australian Recreational Fishing Advisory Council. Again they expressed concerns about illegal fish selling and stated that recreational netting will continue to be a contributing factor to the decline of fish stocks around Australia.

The Hon. R.R. Roberts interjecting:

The Hon. M.J. ELLIOTT: There is little doubt that with some of the machinery some people have on their boats they can almost put the hook into the mouth of fish these days and some recreational anglers are good at targeting species that I could never catch with a line, or with a net, either. I have been put in a very invidious position where, after 12 months, the Government still has not put a substantial amount of information on the table, with the exception of information in relation to one species, namely, tommy ruff. The information I have is that there has been a sudden decline in commercial catches of tommy ruff (otherwise known as Australian herring) in South Australia and Western Australia in the past three years, from 1 500 to 700 tonnes. The tommy ruff commercial fishery has collapsed to a bit under half in a three year period, with the South Australian commercial catch dropping from 500 to 250 tonnes during that same period. Apparently the strongest year class of herring entering South Australian waters was the 1988 year class, some eight years now. Since then year class recruits have been relatively poor. Both Western Australian and South Australian scientists have indicated some concern for the species. There is no doubt that tommy ruff is a species caught in significant numbers by recreational fishermen.

The position I am in now means that either I vote on what I believe to be the case without having the sort of scientific

evidence I would like to have to go conclusively one way or another. Recognising that the Government has treated this Parliament with absolute contempt—there is no other term for it—the temptation is to continue to disallow it. Frankly, after a year (and the Hon. Ron Roberts would know where my preference would lie) I have tried to do the right thing and ensure that the Government would do the right thing itself and bring forward evidence, which it has chosen not to do, either because it will not do it or because it cannot do it. In 12 months that is pretty dismal, whatever may be the answer to that question.

It is not my intention to continue to disallow this regulation. I understand the continuing position of the Hon. Ron Roberts, and the Government stands condemned. At the end of the day, I am not prepared to take the risk of the tommy ruff fishery collapsing on itself, because I would then be taking the blame, even though all I was doing in the first instance was asking for the evidence. There is some evidence that over the past three years the fishery has gone down somewhat.

The Hon. T.G. Roberts: It would not be coastal netters who were impacting on it.

The Hon. M.J. ELLIOTT: It is likely to be a combination of coastal and others. I shall be pursuing the Government on many fisheries management issues: for example, the willingness with which it grants large licences for catching pilchards, with severe problems as to how sustainable the pilchard fishery is at current levels, yet clamping down on another area. At the end of the day the Government has to be prepared to spend real money on research. We cannot continue to have our marine resources, whether recreational or commercial, treated with the contempt and ignorance with which they are being treated at the moment.

Good decision making is based on good information, but the good information base is not there. That is a hindrance to the longevity of our fisheries and aquaculture. The Government will have to lift its game in terms of what it is doing in this place when legitimate concerns are raised and treated with contempt and also the way in which it is handling marine issues more generally beyond the Parliament.

I am not supporting a further disallowance, but I am not happy about the situation. I think that the Hon. Ron Roberts is right to complain about the contempt with which this Parliament is treated. I do not recall the Labor Government whacking back the same regulation after it had been knocked off.

The Hon. K.T. Griffin: It did happen.

The Hon. M.J. ELLIOTT: Continuously over 12 months? The additional point that I make is that in this particular case all that was being asked for was information. The Minister will have to acknowledge that even the information contributed this time was no real advance on where we were before. That is not really good enough, and I cannot believe that the Minister would be happy with that situation.

The Hon. R.R. ROBERTS: I rise in amazement. Over 12 months ago a philosophical decision was made by this Government without one shred of evidence. All the evidence came from a hand-picked committee, not the representatives of the particular organisation. The Hon. Dale Baker hand-picked the committee and gave it some terms of reference. The one thing that the members of that committee did not do that he wanted them to do was to ban recreational net fishing. They brought forward a whole range of recommendations, one of which was that there was no evidence to suggest that any of the species targeted by recreational net fishing was under any threat whatsoever. This Government, as a matter of its own philosophy, said, 'We will not accept that decision because it does not suit us.'

We then went through the charade of moving the disallowance motion and allowing, on the motion of the Chairman of the Legislative Review Committee, a proper inquiry in which everybody had the opportunity to present evidence. However, they produced no evidence whatsoever on the stocks of tommy ruffs, mullet or salmon trout. They brought a whole range of things into the report, trotted in by the Chairman, but none of that was sustainable. It was revealed, as the Hon. Mr Elliott rightly recognised on that occasion, that there was no evidence.

Since then this Government, contemptuously and arrogantly flying in the face of the facts, has in the past 12 months tried to garner together some evidence. What is the evidence? There is none. The reason it has no idea about the effect of recreational net fishing on fish stocks in South Australia is that no research has been done. A workshop was held to do one thing: to cobble together some evidence. However, there was no research. It consisted of opinions, 'We think this might happen; we are not really sure what is happening.' That workshop did not produce any specific fact.

We then get to the last day of the sitting. The Government sits there, gets the disallowance motion, and will not speak on it. On the death knock, the Government comes into this place and asks members to cooperate with it in order to get its legislation through. On no occasion has the Government produced one piece of evidence. It has treated the recreational anglers in South Australia with contempt. Recreational anglers have said, 'We are prepared to pay the licence and go on a tight regime of research, with a continuing natural attrition policy.' With that policy the numbers have gone down from 15 000 to 5 000. Yet the Government comes up with the argument, 'We have to reduce the pressure.' I suggest that a two-thirds reduction of the pressure by recreational fishers is not a bad contribution. It is even greater than that, because in the past 12 months nobody has fished. Therefore, how anybody can suggest that recreational fishing in the past 12 months has affected the tommy ruff stocks is beyond me.

Anecdotal evidence has been provided to me by professional fishermen, who know what they are talking about, with regard to bays where we have had restrictions. I am not opposed to restrictions for commercial nettings and closures. In fact, the Opposition suggested to the Hon. Dale Baker that he ought to separate recreational net fishing and leave all the other regulations in respect of whiting sizes, closures, and so on, to one side. But that particular Minister was too clever: he was going to use the omnibus routine and push it through. Of course, when he had to suffer the ignominy of disallowance, he then said, 'We had to do this because it would cause more dissension between fishers over commercial netting.' It had nothing to do with it; it was the smoke and mirrors routine; it was the spin doctors from his department putting out another propaganda routine trying to justify the unjustifiable.

We have seen this arrogance all the way through. After 12 months of trying to cobble together an argument, we should remember that when this disallowance motion was moved, the Government did not have the sham arguments that it has now produced. Professional fishermen tell me that in the Gulf waters of South Australia there are tonnes of tommy ruff and

they have said, 'For God's sake, let the recreational net fishermen come back because they are aggressive fish, they eat the fingerling whiting and attack the habitat. We want people to get the tommy ruffs out so that we do not destroy the fishery that we know is under absolute stress—the King George whiting fishery.'

The whole thing has been a sham. I am extremely disappointed that the Hon. Mr Elliott should have said in his contribution that there is no evidence whatsoever of any changed circumstances. He has strung along the recreational net fishermen. They put their faith in him. He told them he would support them and would require overwhelming evidence before there was any change. Now he has ratted on them.

The Hon. M.J. Elliott interjecting:

The Hon. R.R. ROBERTS: Yes, you have, you've ratted on them; you've given up the ghost. You admitted during your contribution that there was no evidence. You tried to cover up by saying that you were extremely disappointed, you threw a little of the responsibility on the Government and you suggested that some more research could have been done when we were in power. I will accept that, but what has happened here is that those recreational anglers, who are properly licensed and who have always done the right thing, will be absolutely ignored by this Parliament. They have been let down by the parliamentary system and a crooked Government that will do anything to get its own philosophical way. The Government is prepared to use any means at its disposal in contempt of the parliamentary process. I will not go over the contempt that this Government has.

On the one hand, this Parliament says that it respects the Legislative Council. Let me put this to the Council: no more will I allow the Government to come to me as the shadow Minister and say, 'Don't worry about the legislation, we'll put it in the regulations,' because I do not trust the Government any more. From now on I want everything put in the legislation so that when it goes through we will not have to go through this sort of a farce, this contempt of the Parliament and the people of South Australia, by knocking off the legitimate rights of South Australians to legally pursue their recreational activities. This is a black day, especially for the processes of which we used to be proud in this Parliament.

I will say one more thing. The Conservation Council, with which I deal and for which I have some respect, has not made a formal submission to me. One member of the council said, 'I actually like the ban on recreational net fishing because now the kids on the beach can catch some tommy ruffs.' That is not a question about the effect of recreational net fishing on fish stocks; it is a question about who is entitled to catch fish. I will tell you who is entitled to catch fish: it is every South Australian who has a fishing line and who is properly licensed to undertake any class of fishing. If members opposite want to argue about who ought to catch fish, that is one thing, but do not confuse that with what recreational net fishermen are doing to the school fish stocks in South Australia. Nobody has produced any evidence: not the Government, not the Minister, not the Hon. Mr Elliott—nobody. In every case, it is clear, either admitted or proven, that that evidence does not exist.

Those 556 recreational net fishermen who took the time to write a personal letter to me will be extremely disappointed with the process. The three or four people who have raised with me the issue of recreational net fishing are people who have either confused it with professional net fishing or who have applied for a recreational net fishing licence and been refused. They were quite prepared to be involved in the process, but when their application was refused they complained that the process ought to be stopped. This is a recreational family activity that is doing no harm. This is a group of people who are prepared to pay a licence fee, to undertake the strict regimes of inspection and to do the research and provide catch returns so that proper decisions can be made based on scientific fact to enable an adjustment to be made. They have all admitted that, if the evidence was clear that they were doing damage or that there had been any deleterious effect, adjustments would have to be made.

I am proud to stand here today and say that the Labor Party and I have tried to protect the little people of South Australia. I am absolutely ashamed to say that the Government and the other Party represented in this place have shamefully let them down on the basis of no evidence or fact. This has been a process of attrition. This is legislation by exhaustion. Unfortunately, the Hon. Mr Elliott has been worn down by this process. I will not lose much sleep tonight, because I am used to being disappointed in politics, but there are many people out there—

Members interjecting:

The Hon. R.R. ROBERTS: I am certainly used to being disappointed by members opposite, but I will sleep comfortably tonight knowing that I have done the right thing, that I have been prepared to come to this Parliament and use its processes on behalf of those constituents who are in a weaker position. I will sleep comfortably knowing that I have not shamefully and contemptuously denied the will of this Parliament on two occasions and then felt comfortable with the fact that I have worn down the Democrats by this process of attrition. This is a disgraceful day for democracy in South Australia. Once again, I personally have been disappointed. In spite of my high ideals about the processes of the Parliament—in particular, of the Legislative Council—I am highly disappointed that this motion will not be carried.

The Council divided on the motion:

AYES (8)

Cameron, T. G.	Crothers, T.
Holloway, P.	Levy, J. A. W.
Pickles, C. A.	Roberts, R. R. (teller)
Roberts, T. G.	Weatherill, G.

NOES (11)

Davis, L. H.	Elliott, M. J.
Griffin, K. T. (teller)	Irwin, J. C.
Kanck, S. M.	Laidlaw, D. V.
Lawson, R. D.	Lucas, R. I.
Pfitzner, B. S. L.	Redford, A. J.
Schaefer, C. V.	

Majority of 3 for the Noes.

Motion thus negatived.

ABC RURAL BROADCASTING

Adjourned debate on motion of Hon. Caroline Schaefer:

1. That this Council regards the rural and regional broadcasting activities of the Australian Broadcasting Commission as a critical part of its charter, and urges that the Federal Government's proposed review of the ABC ensures that any changes take into account the commission's important public responsibility to remote area broadcasting where commercial opportunities for information services are severely limited.

2. That this Council requests that these sentiments be conveyed to the Minister for Communication and the Arts, Senator Richard Alston, and to the board of the Australian Broadcasting Commission.

(Continued from 24 July. Page 1789.)

The Hon. ANNE LEVY: I move to amend the motion as follows:

Leave out paragraph 1 and insert new paragraph 1 in lieu thereof:

1. That this Council regards all broadcasting activities of the Australian Broadcasting Commission (ABC) as critical to fulfilling its role for the Australian people, and is particularly concerned that current Liberal Government cuts will affect regional radio and ABC FM in South Australia, and the continued expansion of the youth network Triple J. The Council is of the opinion that the ABC's charter should remain one of a comprehensive service for all Australians, and condemns financial cuts which will prevent it undertaking its full charter.

My amendment, which has been circulated to all members, is designed to replace the first paragraph with a more general motion of support for the ABC. This in no way means that I do not support all the remarks made by the Hon. Caroline Schaefer with regard to the value of ABC regional radio and ABC regional programs to people who live in rural and regional areas, because I certainly endorse those remarks wholeheartedly. However, I consider that this Council should be considering the effects of the proposed cuts to the ABC on the whole of South Australia, not just the rural areas. We members in this Council represent the whole of South Australia, not just the 25 per cent of people who live outside the metropolitan area. The motion needs to express the concerns of the effect of the proposed cuts on the ABC on all ABC listeners in South Australia.

There is no doubt that the cuts which are being proposed by the Federal Government will damage the ABC, particularly with regard to South Australia, in a number of respects. There is not only the potential damage to regional radio and the effects this would have on people outside the metropolitan area but there is also very much to consider the effects on ABC FM, which emanates from Adelaide and which, because of the cuts, may be lost to South Australia, so concentrating the ABC even more in Sydney than it is at present.

There is also the question of Triple J, which runs the youth programs put on by the ABC. These are currently heard in the metropolitan area and are in the process of being extended to the regional areas of South Australia. I understand that they are already available in Mount Gambier, and it is planned that they will be available in the Spencer Gulf region later this year. It would be absolutely tragic if that did not occur because of the savage cuts made by the Federal Government. The youth of this country have the right to have the ABC cater for their interests in the same way as do older people. Triple J is a service that is very much appreciated by young people throughout the country wherever it is available. It would be tragic if it were not to continue its spreading coverage to the non-metropolitan areas.

The first paragraph of the motion moved by the Hon. Caroline Schaefer refers to 'remote area broadcasting where commercial opportunities for information services are severely limited'. I could not help but smile at this. While it is theoretically possible for commercial information services to be available in the metropolitan area, we all know they are not. The commercial media has been described as one where programs are the fill-ins between commercials designed to keep people still listening so that they hear the commercials. The commercial media has no charter to provide comprehensive programs and no charter to cater for all Australians. They are dollar driven. I am not blaming them for this, because that is what the commercial media is about. However, we must recognise that they do not by any means cater for all Australians.

Some people have complained that some of the promos on the ABC can almost be classed as commercials. I would suggest that they are nowhere near as intrusive, often have a wit and taste about them and, in any case, are not used to interrupt programs halfway through, as are commercials. In this respect, one need only compare the television coverage of the Olympic Games with the radio coverage thereof. The intrusive nature of the commercials in the television coverage has, I am sure, spoilt the enjoyment of many people who would want to watch without commercials intruding. That does not apply with the ABC. It has never allowed its promos to in any way carve up, interfere with or interrupt any main programs.

The current charter of the ABC is that it is to provide a comprehensive broadcasting service. In other words, it must serve all Australians. I am sure everyone has their favourite programs. Many people have said to me that in terms of radio programs they would feel an enormous loss if they were to lose the women's program on radio RN, the *Away* program on a Saturday afternoon, the *Science Show*, the program the *Europeans*, that wonderful food program, the fairly new program *In the National Interest* and the Saturday morning gardening program. I know the Hon. Diana Laidlaw listens to that program, as do I.

The Hon. Diana Laidlaw: I listen to you.

The Hon. ANNE LEVY: Only once. There are many such programs which serve the whole of the Australian population and for which there is no counterpart in the commercial media. On television, likewise, there are programs such as *Four Corners*, *Quantum*, the wonderful science programs and documentaries, the *Media Watch* program, and *Back Chat*, quite apart from wonderful programs such as *Pride and Prejudice*, which virtually stopped Australia for an hour each night for six successive Sundays.

Members interjecting:

The Hon. ANNE LEVY: *Pride and Prejudice* was wonderful. It certainly stopped a lot of activities throughout the country. I know people who were scheduling their lives around that program for one hour each of six Sundays. There are great devotees of programs such as *The Bill*. I could go on about wonderful programs. It is quite obviously true that not every program put out by the ABC will appeal to everyone, and nor should it. However, the ABC has as its charter to be comprehensive; in other words, to have something for everybody, because every Australian is entitled to value for their 8¢ a day. My amendment is designed to ensure that this Council recognises the value of the ABC not only to regional listeners, although certainly it is of enormous value to them, but to all Australians, wherever they may live, and that the ABC is quite irreplaceable in the Australian culture.

I have friends who have spent time in New Zealand and who are appalled at what has happened to New Zealand radio and television, which used to be very much on a par with the ABC. They are devastated at the poor quality, lack of information, lack of interesting programs and the cheap, tawdry nature of New Zealand television at present. They plead with us never to let the ABC follow the path of the NZBC.

The Hon. T.G. Roberts: Do they have *Pride and Prejudice*?

The Hon. ANNE LEVY: Probably; I do not know. The ABC does cater for everyone, and Australians have an incredible trust in the ABC. They trust it to be fair; they trust it to be objective; and they trust it to be comprehensive, both

in its range of programs and its range of news items. As I say, there is something for everyone on the ABC. The cuts which the Howard Government is planning are absolutely disastrous for the ABC, and I shudder to think what will happen to intellectual activity and entertainment in this country if the ABC is damaged.

My amendment stresses the enormous value of the ABC to all sections of the Australian community and that any review of its charter must in no way remove the word 'comprehensive'; that the ABC has, and should continue to have, a role of catering to all Australians and of providing something of interest to everyone so that they can continue to hold the ABC in the very high regard in which it is held throughout our community.

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

[Sitting suspended from 6 to 7.45 p.m.]

ROADS (OPENING AND CLOSING) (PARLIAMENTARY DISALLOWANCE OF CLOSURES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 24 July. Page 1800.)

The Hon. M.J. ELLIOTT: I thank members for their contributions and particularly acknowledge the support of the Labor Party. I note that at least one member of the Government, whilst he may or may not be supporting the Bill, has at least indicated sympathy for the contents thereof. The issue is causing some concern in the community. If we do not quite soon address the issue of roads opening and closing, it could have a significant detriment for the State at a later time. I do urge the Government to consider its position. It looks as if the Bill will be passed in this Chamber and I hope that the Government will reconsider its position. It may not get a chance to debate it in this session but perhaps it will in the next.

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

PARLIAMENTARY COMMITTEES

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

That the Legislative Council notes that—

1. Under the Parliamentary Committees Act 1991—
   (a) meetings are usually open to the public; and
   (b) members of committees are not precluded from comment on subject matter which is raised during public hearings;
2. The practice of the Council for a number of years has been, in the establishment of select committees, to permit them to hold public inquiries and to disclose evidence and documents presented to committees and for the committees to resolve to take up this authority given to them by the Council.

Therefore, Council resolves that members are permitted to make fair and accurate comment on evidence given at public inquiries of select committees,

which the Minister for Education and Children's Services has moved to amend as follows:

1. Delete the words 'notes that' after 'Legislative Council' in the first line.
2. Paragraph I—Insert the words 'notes that' before under the Parliamentary Committees Act.
3. Paragraph II—Leave out the words 'the practice of the Council for a number of years has been, in the establishment of select committees,' and insert 'notes that the usual practice of the Council for some time has been, in the establishment of most select committees,'.
4. Insert new paragraph III as follows:
   III. Resolves that if select committees exercise this authority by passing motions in the following form:
   That this committee exercise the authority granted to it by the Council and make available for public disclosure all written and oral submissions received, and that the media and public be admitted to all future meetings of the committee when evidence is being submitted. However, the committee reserves the right to hear evidence in camera and to grant confidentiality to written submissions upon request.
5. Leave out the words 'Therefore, Council resolves that' in the final paragraph and insert the word 'Then'.

(Continued from 24 July. Page 1802.)

The Hon. M.J. ELLIOTT: In closing the debate, I thank all members for their contributions and indicate that, in having looked at the amendments moved by the Minister for Education and Children's Services, I do not see any difficulty with them. In essence, they reflect what was in the original motion and, if the Minister and the Government feel happier with that wording, it does not concern me. Having had brief discussions with the Labor Party, I understand that it is of a similar view.

The intention of the motion was not to change the rules regarding the way select committees work in this Parliament. The motion sought to provide a clear understanding within this Chamber about what the rules meant. There had been some dispute whether or not members were in a position to make a comment about evidence that came before select committees. I have acknowledged that, whilst it is advisable for members perhaps not to make comment in general terms and that they should be careful not to be seen to be prejudging, there are occasions when the need for a comment may arise and it should be up to the individual member's discretion, which is the way it has always been. With all Parties supporting the motion, we are really restating what is already the case so that, if the issue arises again, we clearly have on the record what the Legislative Council believes is the correct interpretation of our Standing Orders.

Amendment carried; motion as amended carried.

EDUCATION SERVICES

Adjourned debate on motion of Hon. Carolyn Pickles:

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 71.41 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 No. 389 be suspended as to enable the Chairperson of the committee to have a deliberative vote only.
3. That this Council permits the select committee to authorise the disclosure or publication, as it thinks fit, of any evidence or documents presented to the committee prior to such evidence being presented to the Council.

4. That Standing Order No. 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,

which the Hon. M.J. Elliott has moved to amend by inserting after subparagraph (c) new subparagraphs as follow:

(ca) the effect of school closures on the delivery of quality education services;

(cb) the role of middle and upper schooling;.

(Continued from 24 July. Page 1808.)

The Hon. J.C. IRWIN: I will not take up much time of the Council, but I want to reflect for a minute on the number of select committees already set up in this Council. At last count, five committees are still operating. A number are putting in interim reports but they are still going, so there are five committees as well as the standing committees. I note that the Hon. Sandra Kanck is on four of those committees now. In the Appropriation Bill debate, I referred to the Select Committee on Tendering Process and Contractual Arrangements for the Operation of the New Mount Gambier Prison, which was set up on 27 July 1995—a year ago—and which I have the pleasure to chair.

This committee has now met seven times in 12 months. The last time the committee met was on 7 May—nearly three months ago. With respect to my colleagues on that committee and my colleagues in this Council, I do not think it is good enough. If we cannot properly and expediently deal with one select committee, we should be very cautious about establishing another. There were no impediments to the progress of this committee from the point of view of the Minister for Correctional Service, despite the confidential difficulties in respect of contracts that are suffered by this committee as there are in some of the other specialist committees looking at contracts and contractual arrangements.

The Mount Gambier select committee now has very detailed material before it which has not been considered. Further, a very competent research officer who is attached to this committee is not being utilised. The last thing I want, which I have had the misfortune to witness previously on select committees, is for this officer to leave the employ of the committee, forcing us to induct and familiarise another officer, with nearly all of the evidence taken. I remember—

The Hon. A.J. Redford interjecting:

The Hon. J.C. IRWIN: That is right; there is plenty of evidence there now but you and I cannot talk about that specific evidence. There is evidence before the committee that has not even been considered. For what it is worth, I reiterate an earlier call I made for select committees to have the same meeting discipline as standing committees. For instance, they should meet at least twice a month on a regular basis on Monday mornings (that avoids shadow Cabinet and Cabinet meetings in the afternoons) and they should meet on Friday mornings twice a month. If members choose not to attend select committee meetings on a regular basis then the select committee should cease to operate. Members, including me, have a responsibility to the people of South Australia to perform our duties with diligence and expediency. It is fair enough to play some political games—and we all do that—but within some other guidelines—

The Hon. R.R. Roberts interjecting:

The Hon. J.C. IRWIN: Well, I am happy for our committee to meet tonight, but it cannot organise a meeting, and that has been the case for three months. We have been trying to meet for three months. I hope that we can make some progress in the select committees we have established without setting up in this process yet another one. I want to move an amendment to the motion and to the Hon. Mr Elliott's amendment to the motion, on behalf of the Minister for Education and Children's Services.

Members interjecting:

The Hon. J.C. IRWIN: The Minister has already spoken so he cannot move the amendments. I move:

Paragraph 1—After 'following matters of importance to' insert 'pre-school,'.

After proposed new subparagraphs (ca) and (cb) insert—

(cc) the special needs of providing extra assistance for students with learning difficulties and students with disabilities;

(cd) the need for children to be able to make a smooth transition from pre-school to school whilst acknowledging the importance of policies directed towards early childhood education;

(ce) the special needs of country students and the need for policies to redress the disadvantage faced by country students.'

The Hon. Michael Elliott's amendment to the motion deals with two other areas for that select committee to consider within its terms of reference, namely:

(ca) the effect of school closures on the delivery of quality education services;

(cb) the role of middle and upper schooling;

The Leader of the Democrats has seen the need to add further terms of reference to those set out by the Hon. Carolyn Pickles, and my amendment on behalf of the Minister seeks to add yet further terms of reference. The Government has indicated that it is opposed to the establishment of the select committee, but if the select committee is to be established—and it looks certain that it will be—the Minister believes that there are important areas which are ignored by the terms of reference set out for the deliberation of this select committee. I refer in particular to the special needs of students with learning difficulties, students with disabilities, students in country areas and to the importance of pre-school education and early childhood education policies. I hope that members of the Labor Party and the Australian Democrats will not oppose these important areas from being considered first by a vote in this place tonight and by the committee itself. I have moved to insert 'pre-schools' in paragraph 1 of the motion, which would thus read:

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

I ask the Council to support the amendment.

The Hon. CAROLYN PICKLES (Leader of the Opposition): I thank honourable members for their contributions. I will take up some of the comments made by the Hon. Mr Irwin. The select committees that I have be on—

The Hon. M.J. Elliott: Ministers are always difficult to get.

The Hon. CAROLYN PICKLES: Opposition members and Democrat members have attended meetings regularly. The women in Parliament select committee was attended well by members on all sides. I think that the Hon. Mr Irwin is referring to the select committee on prisons in Mount Gambier. I have been advised that the comments made by the honourable member are not true.

The Hon. J.C. Irwin interjecting:

The Hon. CAROLYN PICKLES: I have been given the facts, too, and I understand that these issues—

Members interjecting:

The PRESIDENT: Order!

The Hon. CAROLYN PICKLES: If you are going to dish it out you are going to get it back. The comments made by the Hon. Mr Irwin are not accurate and they reflect on the business and on members of this place. I do not believe that members are deliberately thwarting the business of a select committee. All members in this place who move and take part in select committees put in a great deal of work and it will be interesting to test the mettle of the Minister. I understand that he wants to go on this select committee and we will ensure that he is kept very busy travelling around and doing whatever he has to do. I thank the Leader of the Australian Democrats for his support for the select committee and I am happy to support the amendments he has moved, which add two more terms of reference. I am also happy to support the amendments moved by the Hon. Mr Irwin, adding more terms of references. It will be a very busy select committee.

I refer to some historical aspects of select committees in this Parliament. The last select committee established by the Parliament to examine matters relating to education in South Australia was established on 9 February 1992. The committee was established with the support of the previous Government on the motion of the member for Hayward, now the member for Unley and parliamentary secretary to the Minister for Education and Children's Services. The now parliamentary secretary said during the debate on the motion:

> I believe it is important not only to this House but to the people of South Australia that we have a select committee to inquire into education. Members will be aware of matters related to education in the Education Department, which I think concern us all. These words are certainly true today.

The then member for Bright, now the Minister for Correctional Services, strongly supported the motion. In his contribution in 1992 the then member for Bright said:

> There is no doubt that many South Australians believe that education is in a mess, and justifiably so. Parents feel they do not have a say in the way in which their children are educated.

Members interjecting:

The PRESIDENT: Order!

The Hon. CAROLYN PICKLES: The then member for Bright continued:

> They are often frustrated by their lack of progress, by class sizes and by difficulties in gaining access to a school of their choice.

Since those comments were made, class sizes have increased and there is no doubt that many people believe that if education was not in a mess in 1992 it certainly is now. Finally, I refer to the contribution made by the former member for Coles in supporting the establishment of that select committee. She stated:

> It is also important to realise that Parliament as a Parliament has never to my knowledge examined this subject in the way that is now being proposed.

The then member for Coles went on:

> One thing that worries me very much indeed is that the energy, idealism and motivation that is so strong in teachers because of their sense of vocation seems to be gradually being quenched by not only cost restraints but also administrative structures that divert energy that should be put into the teaching of children into less productive areas.

The concerns of the then member for Coles now have foundation and have been exacerbated by the Minister's failure to resolve the teachers' pay dispute, reductions to the education budget, cuts in the numbers of teachers, the increase in class sizes and the reductions in the number of school service officers. Those speeches in 1992 were prophecies of the situation that was to develop under the Brown Government by 1996.

The member for Hayward, now the Minister's parliamentary secretary, could actually foresee what was going to happen. The terms of reference for the 1992 inquiry were quite different from but no less important than those being proposed by this motion. The 1992 select committee was established to inquire into and report on the provision of primary and secondary education in South Australia and, in particular—

The Hon. J.C. Irwin interjecting:

The Hon. CAROLYN PICKLES: Just sit and listen—pre-service and inservice teacher training—

The Hon. J.C. Irwin interjecting:

The Hon. CAROLYN PICKLES: Well, you can leave—the development of curriculum, the assessment of student achievement and the management and organisation of schools. As events turned out, the committee reported on the first term of reference in 1993 but did not report on the other matters. I believe the remarks made by the then member for Coles pointing out that Parliament as a Parliament had not previously established a committee to examine matters related to education are particularly relevant and remain a powerful argument for Parliament to agree to this motion. It is time for the Council to consult the broader community on education.

In 1992, the then Minister for Education supported the establishment of the select committee, and indeed moved amendments to the motion moved by the then member for Hayward to include the specific terms of reference to which I have just referred. Unfortunately, the current Minister does not have the same vision as did the former member for Norwood and has opposed the motion now before the Council. In his reply to the motion on 15 February, the Minister said that a select committee into education matters would be 'a waste of time'.

The Hon. R.I. Lucas: Hear, hear!

The Hon. CAROLYN PICKLES: The Minister says, 'Hear, hear!' but the Minister's view is not shared by the community. Support for the establishment of the committee has come from a wide cross-section of organisations, school councils, parents and individuals. These include the South Australian Association of School Parents Clubs; the Secondary Principals Association; the South Australian Institute of Teachers; school councils, including the Whyalla High School council, to name just one; and individuals who have written to me expressing interest in appearing before the committee.

Members may also be aware that the Australian Senate has established an inquiry into the implications of private and commercial funding of Government schools by the Senate Employment, Education and Training Committee. The committee will report on 17 October 1996 and plans to take evidence in Adelaide in September. I have requested the opportunity to appear before that committee. On 3 July the Minister told the Council that he did not know whether the Government would make a submission, but I hope the Minister will take the opportunity to appear before the committee and clarify the Government's position on private and commercial funding for schools.

I believe the work of the Senate committee will complement that proposal under the third term of reference for our South Australian inquiry and on 17 February I will make a submission to the committee. I have already corresponded with the Senate committee and indicated that before moving

for the establishment of a select committee in South Australia the Opposition took note of inquiries conducted in the Australian Capital Territory and New South Wales on this particular issue. The findings of both those inquiries reflected on issues that have been identified in South Australia as being of public concern, including sources of school funding, the adequacy of Government grants, equity, ownership, accountability and school based management. I believe that the Senate select committee's inquiries will provide a most valuable national overview for South Australia in the context of our own deliberations and I am sure that members of the established select committee will ask to review a report of that. I believe that the findings of the Senate inquiry will highlight the urgent need for South Australia to address these issues and, as I have said, will provide a valuable reference for that purpose.

In my speech on 14 February supporting this motion I provided detailed argument supporting the terms of reference in the motion before the Council and I do not intend to cover those issues again in detail. However, I inform the Council that the situation concerning four year retention rates appears to be worse than earlier thought. I previously informed the Council in February that ABS statistics showed that retention rates had fallen from 92 per cent in 1992 to 71 per cent in 1995. Since then statistics presented to the Estimates Committee this year by the Minister show that in 1995 the retention rates took a swan dive to 62.9 per cent and that for boys the figure was down to 57 per cent. In other words, 43 per cent of boys in South Australia are not completing their secondary education. The Minister continues to attempt to fudge the figures by arguing that part-time students have slanted the statistics—and that does not wash. The Australian Bureau of Statistics says:

> Apparent retention rates measure the percentage of full-time students of a given age group who continue to a particular level of education.

According to ABS statistics, 30 per cent of our students are not completing year 12. According to the Minister's figures, the situation is even worse. Either way that is a scandal and we need to consider the reasons for this.

In 1995 the Minister told the Estimates Committee that SSABSA would look at the issue. Nothing happened. In 1996 the Minister told the committee the same thing. I believe that we now have a responsibility to establish what the facts are and the reasons behind this fall in retention rates.

The Hon. R.I. Lucas interjecting:

The Hon. CAROLYN PICKLES: When are they going to start?

The Hon. R.I. Lucas: They already have.

The Hon. CAROLYN PICKLES: And when are they going to report? In regard to the cuts to school services officers—

The Hon. R.I. Lucas interjecting:

The Hon. CAROLYN PICKLES: We will see about that. We will see how quickly we can get through this. The Minister will not be able to thwart this committee as he has tried to thwart other committees and rort them as he has other committees. In regard to the cuts to school services officers, the Minister has claimed that nothing can be revealed that he does not already know about the Government's decision to break its election promises and cut support staff at schools. The truth is that the Minister does not want the facts debated in the public arena. The Minister does not want a public debate on why parents are now paying levies to employ support staff previously paid for by the Government, or how far the Government proposes to take this cost shifting exercise, or what this fundamental change means to the way education is funded in South Australia.

I now refer to the issue of school fees. In the Minister's reply opposing this motion on 15 February the Minister said, 'The regulation is about to be introduced.' Five months later on 4 July the Minister, in response to a question whether a regulation would be introduced, 'Yes' or 'No,' said that he did not understand the question. There has been a move in South Australia to devolve more responsibility to individual schools. At the same time, annual grants to schools for operating expenses have declined to the point where in some schools they now represent only 25 per cent of expenditure. As a result, fees in many schools have increased sharply. The fee base has been expanded and schools have sought private sponsorships to supplement their funding. In a new development this year some schools imposed a levy to pay the wages of school services officers whose positions were cut by the Government in the 1995-96 budget. In effect, this is a direct transfer of responsibility for the payment of wages from the Government to parents and raises fundamental issues about school funding. There is a concern that this increased reliance on community-based funding for our schools will lead to greater inequities and seriously affect the scope of the curriculum available to many students.

There are no guidelines concerning the level of fees or the purpose for which fees may be charged or whether fees can be transferred for other purposes. There are no assurances for parents that fees will improve learning outcomes. In response to recent questioning, the Minister was unable to say what fees were being collected by individual schools or how they were being spent. Against the background of not knowing what fees were being charged by schools, the Minister announced on 26 January this year that the Government would assist school councils by clarifying the legal position concerning the collection of unpaid fees by introducing a regulation of which we still have not heard anything.

The issues covered by the motion have been identified as among the most important for the education of our children in 1996. There are many other issues which arguably are as important and which should be considered by this Council, and those not reported on by the 1992 committee remain as valid today as they were then. The Hon. Mr Elliott moved an amendment to add two more terms of reference, the first of which is to look at the effect of school closures on the delivery of quality education services. I think that is a valid and useful term of reference, because some very contentious school closures have already taken place and others are proposed to take place by the end of this year. The second term of reference which the Hon. Mr Elliott added concerns the role of middle and upper schooling. That matter has been raised with me by many teachers and parents who want to know precisely where we are going in relation to this issue. I think the Hon. Mr Elliott's amendments are valid and important.

The amendment moved by the Hon. Mr Irwin to look at issues related to preschool is also important. He has also moved an amendment to look at providing extra assistance for students with learning difficulties and disabilities and the ability of children to make a smooth transition from preschool to school whilst acknowledging the importance of policies directed towards early childhood education and the need for policies to address the special needs of country students and the disadvantages faced by them.

The Hon. R.I. Lucas interjecting:

The Hon. CAROLYN PICKLES: That's interesting. The Minister interjects that someone has to take an interest in them. What kind of interest does the Minister take in them? It will be interesting to see the role that the Minister plays on this committee and whether it is the totally negative role he usually plays on select committees. I have been a member of select committees with the Minister in the past.

The Hon. R.I. Lucas: Which one?

The Hon. CAROLYN PICKLES: Quite a number. From what I have heard from my colleagues about the Minister's negative behaviour on select committees, it will be interesting to see whether he is interested in learning from students, teachers and parents in our State about the problems they have with the education system and, as the Minister in this area, whether he tries to do something about them. I very much doubt it, but I assure the Council that other members will be interested and will pursue this select committee with interest and vigour. I urge all members to support the motion.

The Hon. J.C. Irwin's amendment to paragraph I carried; the Hon. J.C. Irwin's amendment to the Hon. M.J. Elliott's amendment carried; the Hon. M.J. Elliott's amendment as amended carried; motion as amended carried.

The Council appointed a select committee consisting of the Hons M.J. Elliott, P. Holloway, R.I. Lucas, Carolyn Pickles and Caroline Schaefer; the committee to have power to send for persons, papers and records, and to adjourn from place to place; the committee to report on the first day of the next session.

STATUTES AMENDMENT (UNIVERSITY COUNCILS) BILL

The Hon. R.I. LUCAS (Minister for Education and Children's Services): 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.

An independent review of University Governance was commissioned in July 1995 to be chaired by Mr Alan McGregor AO, with the review group including four other members with extensive business and University experience.

The review was initiated in response to a need to consider the issue of University governance which had been subject to little change for many years. It was considered critical to ensure that University governance arrangements are appropriate for the present and the future to guarantee that the contribution of the three Universities to South Australia through excellence in teaching and research are not constrained for the want of effective governing structures.

Following extensive consultation including the invitation of public submissions, the report of the Review group was delivered in February 1996.

The report reiterated the need for University Councils to function as a governing body, and not a managerial body.

The report clearly indicated that councils should be smaller, more cohesive bodies, which concentrate on policy, strategy, review and management performance and capacity.

The report made specific recommendations regarding the membership and size of councils, in particular that a council should be comprised of not more than 20 members.

Concurrent with this review the Commonwealth Government was conducting a Higher Education Management Review which also stressed the need for smaller governing bodies which had ultimate responsibility for strategic direction and development as well as accountability and monitoring and review of institutional strategic performance.

This Bill aims to reinforce the role of the Councils of the three Universities in South Australia as the governing body of the Universities by clearly establishing that their major responsibilities are for oversight, establishment of strategic directions and review.

This will ensure that a Council does not become preoccupied with minor issues but that its expertise is used to consider medium and long term issues of significance to its University and to oversee the operations of the University and its management.

The Bill establishes a common maximum size of 20, with similar membership provisions for the three bodies which provide for a majority of external members.

Some external members will be recommended to the Council for appointment by a selection committee comprising the Chancellor and six others appointed by the Chancellor in accordance with guidelines determined by the Council.

Provision is made for the final balance of composition to be determined by the Council by co-option and appointment. Three members will be elected by the Adelaide University Senate for that particular Council.

The internal members will include staff and students, with minor variations between the three universities to reflect their individual organisational structures.

As far as practicable, the authority responsible for appointing Council members must consider gender balance and appoint persons who have a commitment to education and in particular, to higher education and have an understanding of, and commitment to, the principles of equal opportunity and social justice and, in particular, to access and equity in education.

Explanation of Clauses

PART 1

PRELIMINARY

Clause 1: Short title

Clause 1 is formal.

Clause 2: Commencement

Clause 2 provides that the proposed Bill is to come into operation on a date to be fixed by proclamation but that if a provision of the Act has not come into operation by the first anniversary of the day of assent to the Act it will come into operation on that anniversary.

Clause 3: Interpretation

Clause 3 provides that a reference in the proposed Bill to a principal Act is a reference to the Act referred to in the heading to the Part in which the reference occurs.

PART 2

AMENDMENT OF THE FLINDERS UNIVERSITY OF SOUTH AUSTRALIA ACT 1966

Clause 4: Amendment of s. 2—Interpretation

Clause 4 inserts a definition of Academic Senate into the principal Act. The Academic Senate is the body known as the Academic Senate of the University, or if another body is prescribed by the regulations of the University for the purposes of the definition, that other body.

Clause 5: Amendment of s. 5—Council

Clause 5 amends section 5 of the principal Act by inserting into the Act the principal responsibilities of the Council. These are overseeing the management and development of the University, devising or approving strategic plans and major policies for the University and monitoring and reviewing the operation of the University. It also amends the subsection that lists the people who are to be members of the Council. It proposes that the council consist of the following members:

1. the Chancellor and the Vice-Chancellor who will be members of the Council *ex officio*;
2. the presiding member of the Academic Senate or, if the Vice-Chancellor is the presiding member, the deputy presiding member of the Academic Senate, who will be a member of the Council *ex officio*;
3. the General Secretary of the Students Association of the University who will be a member of the Council *ex officio*;
4. ten persons appointed by the Council, on the recommendation of a selection committee (which consists of the Chancellor and six other persons appointed by the Chancellor in accordance with guidelines determined by the Council);
5. such number of persons (if any), but not exceeding two, as the Council may co-opt and appoint as members of the Council;
6. two members of the academic staff, elected by the academic staff;
7. one member of the general staff, elected by the general staff;
8. one student of the University (not being a person in the full time employment of the University), appointed or elected in a manner determined by the Vice-Chancellor after consultation with the General Secretary of the Students Association of the University (if the General Secretary of the Students

Association is an undergraduate student it must be a postgraduate student and if the General Secretary of the Students Association is a postgraduate student it must be an undergraduate student).

This differs from the members who previously constituted the Council. It removes from the Council the Pro-Chancellors, the Pro-Vice-Chancellor or Deputy Vice-Chancellor, five members of Parliament, four members of the Convocation and three members appointed by the Governor and includes as members of the Council the presiding member of the Academic Senate and ten persons appointed by the Council. It decreases the number of academic staff from eight to two, the number of students (other than the General Secretary of the Students Association) from four to one and the number of members that may be co-opted by the Council from three to two.

The proposed section also provides that the Council is, as far as practicable, to be constituted of equal numbers of men and women who have a commitment to education and the principles of equal opportunity and social justice. At least one member must have qualifications and experience in financial management. An employee or student of the University is not eligible to be appointed to the Council by the Council and a selection committee established for the purpose of making an appointment cannot recommend one of their number for appointment.

Clause 6: Substitution of ss. 6 to 15

Clause 6 repeals the sections of the principal Act that provided the terms of office of the members of the Council and inserts one section setting out the terms for the proposed new members of the Council. It provides that a member appointed to the Council by the Council will be appointed for either two or four years, that a member of the academic or general staff of the University will be elected for two years and that a student of the University will be appointed or elected for one year. At the expiration of a term of office, a member appointed or elected to the Council is eligible for reappointment or re-election.

The proposed section also provides the grounds on which the Council may remove an appointed or elected member of the Council from office and details the circumstances under which the office of a member of the Council becomes vacant. If the office of an appointed or elected member of the Council becomes vacant a person must be appointed or elected to the vacant office and such a person will hold office for the balance of the term of his or her predecessor.

Clause 7: Amendment of s. 16—Appointment of Chancellor, Vice-Chancellor, etc.

Clause 7 amends section 16 by changing the term of office of the Chancellor from five years to four years and providing that an employee or student of the University is not eligible to be appointed to the office of Chancellor.

Clause 8: Amendment of s. 18—Conduct of business in Council

Clause 8 amends section 18 by changing the quorum of the Council from twelve members to nine members.

Clause 9: Repeal of s. 19

Clause 9 repeals section 19 as the responsibilities of the Council are contained in the proposed section 5(2).

PART 3

AMENDMENT OF UNIVERSITY OF ADELAIDE ACT 1971

Clause 10: Amendment of s. 3—Interpretation

Clause 10 amends section 3 by striking out definitions which are now obsolete and changing the term "ancillary staff" to "general staff".

Clause 11: Amendment of s. 7—Chancellor and Deputy Chancellors

Clause 11 amends section 7 to provide that the Chancellor is to be appointed for a term of four years and is eligible for reappointment and that an employee or student is not eligible to be appointed to the office of Chancellor.

Clause 12: Amendment of s. 8—Vice-Chancellor

Clause 12 is a drafting amendment.

Clause 13: Substitution of s. 9

Clause 13 replaces section 9 so that rather than the Council having the entire management and superintendence of the affairs of the University, it is to be the governing body of the University and have as its principal responsibilities overseeing the management and development of the University, devising or approving strategic plans and major policies for the University and monitoring and reviewing the operation of the University.

Clause 14: Substitution of ss. 11 to 13

Clause 14 makes changes to the sections of the principal Act that deal with the conduct of business of the Council, the constitution of the Council and casual vacancies. Under the proposed sections, nine rather than eight members of the Council will constitute a quorum and the Council will be constituted of the following members:

1. the Chancellor and the Vice-Chancellor who will be members of the Council *ex officio*;
2. seven persons appointed by the Council, on the recommendation of a selection committee (which consists of the Chancellor and six other persons appointed by the Chancellor in accordance with guidelines determined by the Council);
3. three persons elected by the Senate;
4. if the Council so determines, one person co-opted and appointed by the Council;
5. three members of the academic staff, elected by the academic staff;
6. two members of the general staff, elected by the general staff;
7. two students of the University, one of whom must be a postgraduate student and one of whom must be an undergraduate student, appointed or elected in a manner determined by the Council after consultation with the presiding member of the Students Association of the University.

The proposed section also provides that the Council is, as far as practicable, to be constituted of equal numbers of men and women who have a commitment to education and the principles of equal opportunity and social justice. At least one member must have qualifications and experience in financial management. An employee or student of the University is not eligible to be appointed to the Council by the Council or to be elected to the Council by the Senate. An undergraduate student is not eligible for appointment or election to the Council unless he or she has been enrolled as an undergraduate for the two academic terms last preceding the date of the appointment or election. A selection committee established for the purpose of making an appointment cannot recommend one of their number for appointment.

The proposed section sets out the terms of office of members appointed to the Council. A member appointed by the Council will be appointed for either two or four years, a person elected by the Senate to the Council will be elected for two years, a member of the academic or general staff of the University will be elected for two years and a student of the University will be appointed or elected for one year. At the expiration of a term of office, a member appointed or elected to the Council is eligible for reappointment or re-election.

The proposed section dealing with casual vacancies provides the grounds on which the Council may remove an appointed or elected member of the Council from office and the circumstances under which the office of an appointed or elected member becomes vacant. If the office of an appointed or elected member of the Council becomes vacant a person must be appointed or elected to the vacant office and such a person will hold office for the balance of the term of his or her predecessor.

Clause 15: Repeal of ss. 15 to 17

Clause 15 repeals sections of the principal Act which are no longer required due to the changed membership of the Council.

Clause 16: Further amendments to principal Act

Clause 16 indicates that the principal Act is further amended by a Statute Law Revision schedule.

PART 4

AMENDMENT OF UNIVERSITY OF SOUTH AUSTRALIA ACT 1990

Clause 17: Amendment of s. 3—Interpretation

Clause 17 amends the definition of the Academic Board.

Clause 18: Substitution of s. 10 to 11a

Clause 18 repeals sections 10, 11 and 11a of the principal Act and inserts new sections dealing with the establishment of the Council and the term of office of the members of the Council. The proposed section 10 provides that rather than the Council having the entire management and superintendence of the affairs of the University it is to be the governing body of the University with its principal responsibilities being overseeing the management and development of the University, devising or approving strategic plans and major policies for the University and monitoring and reviewing the operation of the University.

Under the proposed new section the Council will be constituted of the following members:

1. the Chancellor and the Vice-Chancellor who will be members of the Council *ex officio*;
2. the presiding member of the Academic Board who will be a member of the Council *ex officio* or, if the Vice-Chancellor is the presiding member of the Academic Board, a member

of the Academic Board elected by the Academic Board (but that person cannot be a student of the University);

3. the presiding member of the Students Association of the University who will be a member of the Council *ex officio*;
4. ten persons appointed by the Council, on the recommendation of a selection committee (which consists of the Chancellor and six other persons appointed by the Chancellor in accordance with guidelines determined by the Council);
5. if the Council so determines, one person co-opted and appointed by the Council;
6. two members of the academic staff, elected by the academic staff;
7. two members of the general staff, elected by the general staff;
8. one student of the University appointed or elected in a manner determined by the Vice-Chancellor after consultation with the presiding member of the Students Association of the University (if the presiding member of the Students Association is an undergraduate student it must be a postgraduate student and if the presiding member of the Students Association is a postgraduate student it must be an undergraduate student).

This differs from the members who previously constituted the Council. It removes the two members of Parliament, the two members of the association of the graduates of the University and the six members appointed by the Governor and provides for ten members to be appointed by the Council. It decreases the number of academic staff from four to two and the number of students (other than the presiding member of the Students Association) from two to one.

The proposed section also provides that the Council is, as far as practicable, to be constituted of equal numbers of men and women who have a commitment to education and the principles of equal opportunity and social justice. At least one member must have qualifications and experience in financial management. An employee or student of the University is not eligible to be appointed to the Council by the Council. A selection committee established for the purpose of making an appointment cannot recommend one of their number for appointment.

The proposed section 11 sets out the terms of office of members appointed to the Council. A member appointed by the Council will be appointed for either two or four years, a person elected by the Academic Board to the Council will be elected for two years, a member of the academic or general staff of the University will be elected for two years and a student of the University will be appointed or elected for one year. At the expiration of a term of office, a member appointed or elected to the Council is eligible for reappointment or re-election.

The proposed section also provides the grounds on which the Council may remove an appointed or elected member of the Council from office and the circumstances under which the office of an appointed or elected member becomes vacant. If the office of an appointed or elected member of the Council becomes vacant a person must be appointed or elected to the vacant office and such a person will hold office for the balance of the term of his or her predecessor. These subsections are substantially the same as in the current Act.

Clause 19: Amendment of s. 12—Chancellor and Deputy Chancellor

Clause 19 removes references in section 12 to Parliamentary members and allows co-opted members of Council to be appointed to the office of Chancellor or Deputy Chancellor.

Clause 20: Amendment of s. 13—Procedure at meetings of the Council

Clause 20 amends section 13 of the principal Act by changing the quorum of the Council from one half of the members of the Council to nine members of the Council.

SCHEDULE 1

Transitional Provisions

Schedule 1 provides that on the commencement of Part 2 of the proposed Bill the offices of the appointed and elected members of the Council of the Flinders University of South Australia are vacated, that on the commencement of Part 3 of the proposed Bill the offices of the appointed and elected members of the Council of the University of Adelaide are vacated and that on the commencement of Part 4 of the proposed Bill the offices of the appointed and elected members of the Council of the University of South Australia are vacated.

SCHEDULE 2

Further amendments to the University of Adelaide Act 1971

Schedule 2 contains statute law revision amendments to the *University of Adelaide Act 1971*.

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

DEVELOPMENT (MAJOR DEVELOPMENT ASSESSMENT) AMENDMENT BILL

In Committee.

Clauses 1 and 2 passed.

Clause 3—'Definitions.'

The Hon. DIANA LAIDLAW: I move:

Page 1, after line 21—Insert new paragraph as follows:

(ab) by inserting after the definition of 'local heritage place' in subsection (1) the following definition:

'Major Developments Panel' means the Major Developments Panel established under section 46A;;.

This seeks to amend the interpretation clause by renaming the advisory panel in order to reflect the increased role of the Major Developments Panel as contained in the amendments that I will move to clause 6. Technically, it is seen as consequential on major amendments to be moved later in this Bill, but it is important to note that those major amendments require this definition clause to be amended at this early stage. I understand that there has been some discussion and agreement in debate on this Bill, and earlier in consultation with the Minister and various parties, that there is good reason to change the role and terms of the advisory panel.

The Hon. P. HOLLOWAY: The Opposition supports this amendment. As the Bill presently provides, the Minister alone can call in projects and determine such matters as the level of assessment of those major projects. As a result of discussions to which the Minister just referred between the Opposition, the Government and a number of other parties, it was agreed that we would have this extra level where the Minister would call in major projects via the Major Developments Panel and that the new panel would have the task of determining the level of assessment—that is, one of the three tiers: the environmental impact statement, the public environmental report or the development report—and of considering the guidelines under which that would be undertaken. In later amendments we will look at ensuring that there is public consultation on both those processes. We believe that this clause foreshadows a very important change to the Bill, which the Opposition welcomes.

The Hon. M.J. ELLIOTT: When I spoke to the second reading last night, I indicated that there was one ray of hope in what the Government was proposing, particularly by way of amendment to its own Bill, in terms of handling major projects, that is, a series of clauses that are essentially foreshadowed by the first of what will be a series of amendments. There is no doubt, looking at the Bill, that there was concern that not only was the Minister to have the power to call in major projects and that that call-in power would be absolutely unchallengeable but also the Minister was to make a decision as to the level of assessment and ultimately make a final decision on the project. I have argued for a long time—and members in this place would know that—in relation to the Development Act that there is a very clear need to decide what questions are political questions and what questions are not. In my view, environmental assessment is not a political question. Whether or not a project proceeds on the basis of environmental advice is a political question.

I have suggested that the environmental assessment process in the past has suffered for a number of reasons, one

being a lack of independence and the capacity for it to be interfered with. The temptation is very great to interfere politically with the environmental process but in the process fail to address issues in a proper manner: one seeks to hide, cover them up or down play them rather than treating them for what they are. While a Minister may be able to influence what comes out of the environmental assessment process, it does not change reality and it certainly does not change public perception.

If the public gets the slightest sniff that they are being treated as fools, that will only get people's backs up. I said during the second reading stage that, if due process does not work, the public will find other ways outside due process to tackle the problem. The establishment of an independent panel to decide whether or not there will be an environmental impact assessment, a public environmental report or a development report is a very good move. The Government will, in later amendments, also be requiring this independent body to set up the guidelines and, very importantly, will also be instructing this body to carry out a public examination at the very beginning of the process, in fact, before the full environmental assessment commences.

In the past I have been critical of the fact that the public's first input of any major significance tends to happen a long way down the track, by which time the developer has expended a gate deal of time, money and effort and is almost fully committed to a project that might still have associated problems. If we do have a process where there is a genuine attempt to identify potential problems, as distinct from making out they do not exist, that in the long run will give developers more certainty because, if there is a problem and it has been identified, they are in a position to address it. If they do not address it at that point, they will have it coming back at them later on, outside due process if not within it. I have given a number of examples in this place, such as Tandanya on Kangaroo Island, where a failure to identify the issues early was the major reason for the project failing. That is true of a number of high profile projects that have failed in South Australia.

I sincerely appreciate this and the following amendments, because they offer real hope that major projects will be handled in a proper way. I will be moving other amendments that will reinforce that process, because it is flawed in other ways and I will address that under later amendments. It is a significant move along the way. Certainly, from round table meetings that I have had with local government, conservation groups and the Employers' Chamber, I do not believe there is any concern at all about this particular move: in fact, there is general and strong support.

Amendment carried; clause as amended passed.

Clause 4 passed.

Clause 5—'Determination of relevant authority.'

The Hon. DIANA LAIDLAW: I move:

Page 2, lines 34 to 39—Leave out subsubparagraph (A) and substitute new subsubparagraph as follows:

(A) in the Minister's opinion the relevant council has demonstrated a potential conflict of interest in the assessment of the development because of a publicly stated position on that particular development;.

Members would appreciate that this Bill provides for three criteria by which the Minister can transfer a determination of a development application from a council to the Development Assessment Commission. Upon consideration and some consultation, the Minister and the Government have agreed that the first criterion may require some refinement, and this has not been possible to achieve by amending this provision. Therefore, I have moved the amendment.

The new criterion, subsubparagraph (A), will give the Minister the ability to transfer a decision on a development application from a council to the Development Assessment Commission in circumstances where the council has demonstrated a potential conflict of interest by prejudging the merits of an application. Section 34 of the Act already contains a provision for a council voluntarily to request such a transfer where a conflict of interest exists. This amendment will allow the Minister to act without waiting for a request from the council.

The Hon. M.J. ELLIOTT: I move to amend the Minister's amendment as follows:

Page 5, line 34—Leave out 'in the Minister's opinion'.

I think this is the appropriate moment to make a few comments about local government and its role. The amendments that the Government has on file to this clause are predicated on a couple of falsehoods. The first is that local government is slow in processing development proposals, and data which I read into *Hansard* in this place and which Ms Annette Hurley read into *Hansard* in the other place quite clearly demonstrates that local government is not responsible for significant delays. In fact, so far as delays are occurring these days, we find that they are occurring inside Government departments, and DAC itself is proving to be slower to handle development proposals than local government.

Local government does not claim that it has things perfect, but it certainly says that any reputation that local government has is a dated reputation. They have very clear statistics to show a dramatic improvement in processing times that has occurred over the past 18 months or so. They are clearly working to further improve that. On the other hand, the Government has not conceded that it has significant problems inside its own departments that are causing most of the delays which people are assuming are being caused by local government.

Because the application is lodged with local government, people do not realise that local government itself has to consult, by law, with a range of departments and it is the time that these applications spend sitting in the departments that is causing the delays, but people do not see what happens behind the scenes. This whole demand is predicated on that falsehood to start off with. Also, there is the falsehood that local government generally is making many mistakes. I found it interesting that, having challenged people to come forward with examples of where things went wrong—I was given 13 high profile examples of where developments failed—by apparent experts in the field, I went through an analysis of that last night and the record simply does not uphold the claim that local government is a problem in relation to the way it treats proposals.

Conversely, there are questions about the involvement of commercial competitors which have been raised in the media on a number of occasions in the last four or five months by the Premier which have not been addressed by this legislation in any way, shape or form whatsoever. It is such a nonsense. Where there is a real problem it is not addressed and where there is not a problem we have these clauses. I note that in his contribution last night the Hon. Angus Redford had a shot at the Local Government Association and said:

. . . the Local Government Association, having signed off and agreed to the bulk of the proposals put in this Bill then went off and did its usual performance of going to the Democrats to see whether they could extract anything further. . .

Later he stated:

> . . . would perhaps take a consultation [with] the Government more seriously, identify the issues with which it disagrees with the Government, narrow them down and narrow the debate.

I have had communication from the Local Government Association President, Councillor John Ross, who has asked me to convey to this Council his concern about the comments made last night. He has asked me to make it clear that at no stage did the Local Government Association agree to the Bill and subsequently go back on its word. He said that he kept the Minister informed at all stages and on 28 June indicated to him in writing his disappointment that he had not responded to more of the LGA's concerns. Only the following week did he convey the same views to other members of Parliament. The Hon. Angus Redford has clearly been misinformed as to the LGA's position and how it conducts its business. That is the communication I have had from the President of the LGA.

I have been in ongoing consultation with the LGA in relation to the Development Act since about October last year and the frequency of that consultation increased dramatically in the past couple of months. I can say that in the meetings I have had with the LGA, it said, 'We are trying to be polite and cooperative with the Minister.' They praised the Minister in terms of him being more accessible than the previous Minister but said, 'At the end of the day, on all the issues important to us, they are simply not being addressed.' In my file I have copies of copious correspondence—both internal and external—which clearly says they have problems and clearly, contrary to what the Hon. Angus Redford says, identifies the relatively small number of specific areas and where they have problems. One of them was call-in powers.

In fact, minds were already made up and the LGA, whilst it was invited to talk, at the end of the day I do not believe it was listened to. It has responded to the challenge and produced the data to show that there is not a real problem and the Government in this Chamber has not produced a skerrick of evidence to support what it is trying to do. This is bad legislation that is based on bad information. In fact, it is based on no real information. It is based on the sort of talk that people have over their table having a few wines, talking about history and repeating mythology and not talking about the here and now and what is happening in Adelaide. It is an absolute damn shame for the association to be criticised for being outright honest, for laying its cards on the table and for saying, 'Here is where it is at.' It is blatantly unfair.

I am opposed to this amendment but, knowing that the Labor Party will oppose virtually nothing the Government does, I will move an amendment hoping to improve it slightly. The clause that the Government now seeks to insert suggests that a relevant council has demonstrated a potential conflict of interest in the assessment of the development because of a publicly stated position on that development. That has to be some of the most imprecise stuff I have ever seen. We have the Minister's opinion which, I must say, is a pretty low level of test. I am not talking just about this particular Minister but, legally, it is not a high test, and then there is a potential conflict of interest—whatever that means. Will a potential conflict of interest include when a council has expressed a viewpoint that a non-complying development is unacceptable? Is this unreasonable for a council which has gone through a planning review process and which has determined a development plan and then a developer says, 'I want to do something contrary to the plan'? The moment they express an opinion that this does not comply and that they do not view it favourably, the Minister could say, 'Well, you have a conflict of interest.'

In fact, councils have a potential conflict of interest every time the development does not comply with the development plan, because the development plan is their statement of intent and what they want. This is incredibly imprecise. How the courts will handle it is anyone's guess, but I imagine the lawyers will love it. They will have a field day. An absolute mint will be made out of testing whether or not there has or has not been a conflict of interest, whether or not a public position has been stated and, indeed, what a publicly stated position even means. Is it something that has to be said in the chambers? Is it something that has to be done by way of passing a motion? Is the very fact that the planning committee's chairperson has said something to the newspaper a council position? Is there a conflict of interest? I think the lawyers will have an absolute ball. They will love it; they will make a mint. One could spent yonks in the courts with this one. I say that it is bad because it is unnecessary, and that is what I argued to start off with. But, at the end of the day, when we start working out what on earth this means there will be enormous delays. I congratulate the Minister on achieving that.

In relation to my amendment I said that I did not think that the Minister's opinion was a particularly rigorous test. I do not think that to be able to go to court and argue that this is the Minister's opinion is a particularly strong test, but, then again, there will be quite some argument in the courts about this whole question of the Minister's opinion. It just creates more problems. It is not putting in a sufficiently rigorous test, because the Minister should have a damn good reason before he or she calls in a development. In any case, if it stays there it is just one more point to argue about in the courts.

The Hon. P. HOLLOWAY: I agree with the Hon. Mr Elliott that the evidence available on the planning record does point to the fact that major delays to projects are a result of various State Government authorities rather than local government authorities. That fact was pointed out by my colleague the shadow Minister, in another place. I also agree with the Hon. Mr Elliott's comments on the role of the Local Government Association. I have always found the Local Government Association to be constructive whenever legislation has been put through this place. That goes right back to the local government boundary reform legislation passed last year. I believe that better development outcomes, which is what we all want and what I presume this Bill is about, will come if the Government is more cooperative with the Local Government Association and with local government generally than it has been.

We would do a lot better if the Government was more cooperative with those bodies than it has been. Nevertheless we support the Government amendment on this matter. The amendment proposed by the Government makes the Bill considerably better than when it came to this place. This provision is the ground on which the Government can call in projects which would normally go through the approval process through councils and the Development Assessment Commission.

In the Bill as it came to us there were three grounds. One of those grounds now being deleted from this Bill was that, if in the Minister's opinion, the development raises an important issue of policy that is inadequately addressed in the relevant development plan, the Minister can call in the development. The Opposition believed that that created a

situation where the Minister could call in projects that should not be called in. Potentially it could be misused.

The Government has now in its place brought in new grounds which are that, if in the Minister's opinion the relevant council has demonstrated a potential conflict of interest in the assessment of the development plan, it can be called in. There are two other grounds, namely, 'If in the Minister's opinion the development would have a significant impact beyond boundaries of the council' and, thirdly, 'If the council has failed to deal with an application for development authorisation within the required time.' Those three grounds will be the total criteria for a ministerial call in under this provision. That is a much more reasonable outcome than would have been the case had the Minister been able to use the more vague test of policy.

In relation to the replacement clause, I do not accept the amendment that the Hon. Mike Elliott wishes to move. At the end of the day the Minister has to take responsibility and somebody has to give an opinion or judgment.

The Hon. M.J. Elliott interjecting:

The Hon. P. HOLLOWAY: My understanding of legislation is that normally when it says 'the Minister' it is the collective name and not just the person but also the Government and the department. At the end of the day someone in Government and accountable to the people in a democratic system has to make the decision. The replacement clause needs to be clarified. The provision reads, 'If in the Minister's opinion the relevant council has demonstrated a potential conflict of interest. . . ' There has been some misunderstanding within the local government community that that may apply to an individual councillor and that, if some individual councillor had some conflict of interest on a development, that might therefore enable the Minister to call in a development proposal instead of its going through the council. It is the understanding of the Opposition on the advice it has received that that is not the case and that is why the relevant words are 'the council' and not 'the councillor'.

In relation to the comments of the Hon. Mike Elliott, the potential conflict of interest should be a clear enough test to restrict this call in power. I do not think anyone would argue that, if there is a clearly demonstrated conflict of interest position, the Government should not call in the project. Clearly there will be cases where councils may have a conflict of interest, for example, if a council owns the land on which a development application is to be proposed. One can think of many reasons where there may be legitimate reasons for calling in a project because there is a conflict of interest. No reasonable person could argue against having a test of that kind for allowing call in powers.

So, on the whole we believe that the effect of this amendment, which is to remove the loosely worded test of a policy, tightens it up to a conflict of interest. Together with the other two tests, we now have reasonable grounds on which a Minister can call in development proposals that would normally go through a council. Consequently, we support the amendment.

The Hon. M.J. ELLIOTT: I note that the honourable member is pleased that the old paragraph (a) is gone, but I must say that, on the current wording of paragraph (b), I do not think it will make a huge difference. It could probably be argued that a proposed development having a significant impact could be interpreted in terms of something broader than just a physical or direct impact and may be read quite broadly. If that is the case, then (a), which seems to have disappeared, is effectively covered by (b) in any case. I will seek to amend (b) to make quite plain what we mean by it, because at the moment it is capable of being read very broadly. If my predictions about this new paragraph (a) prove to be correct, both in terms of delay and in terms of potential for abuse, I am sure the Opposition will be keen to blame the Government, because it is its Bill, but I will not be slow to point out that it was a Government and Opposition provision that has led to the problems.

The Hon. DIANA LAIDLAW: In moving my amendment earlier I did not speak to the amendment moved by the Hon. Michael Elliott, and I want to comment briefly that, while he is full of foreboding, concern about delays and general pessimism (typical, but disappointing) he has predicted in his usual form that there will be more delays. After consideration of this issue from various sources, including the Local Government Association, and in discussion with people who must also have discussed it with the Opposition, it is our collective view that there will be fewer options for lawyers to argue for delay, not more; and for that reason there is collective, majority support for this amendment. In this Council we forever pick up the consequences of Democrat amendments that we or the former Government adopted in good faith over time to get legislation through—compromises, in many instances. It would be very interesting to do the statistics at some time to find out how often we have sought to accommodate the Democrats and have come back to this place because we have to pick up the pieces. I suspect here that, rather than bowing to those pessimistic views today, it is not before time that we adopt a more optimistic approach.

The Hon. M.J. ELLIOTT: If one thing is predictable with the Government it is that you cannot make constructive criticism, because that is seen as being negative. The Minister really should be very aware that we have made an honest attempt to try to work with the Government, although the Minister has met with me extremely rarely in terms of generally trying to sort it through when genuine offers were being made—not just by the Democrats but also by local government and community groups. So, I think the Minister is being blatantly unfair. The Minister did not take up the challenge to bring forward the examples that are being addressed. Why do we have these clauses? I challenge the Minister to give an example of the sort of problem that is being addressed at this stage. If the Minister can manage a list of one, I would be extraordinarily surprised. In terms of making that sweeping generalisation about the fate of Democrat amendments, that was nothing more nor less than a sweeping generalisation.

The Hon. M.J. Elliott's amendment negatived.

The Committee divided on the Hon. Diana Laidlaw's amendment:

AYES (15)

Crothers, T.	Griffin, K. T.
Holloway, P.	Laidlaw, D. V. (teller)
Lawson, R. D.	Lucas, R. I.
Nocella, P.	Pfitzner, B. S. L.
Pickles, C. A.	Redford, A. J.
Roberts, R. R.	Roberts, T. G.
Schaefer, C. V.	Stefani, J. F.
Weatherill, G.	

NOES (2)

Elliott, M.J.(teller)	Kanck, S.M.

Majority of 13 for the Ayes.

Amendment thus carried.

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

Page 3, line 2—After 'have' insert 'direct and'.

I indicated when I spoke to the previous amendment that I believed that subparagraph (vi)(B) was capable of a fairly broad interpretation. It seemed to me that the Minister was implying 'a direct and significant impact' and not something which is vague and general and perhaps almost of a policy type. I suppose that by moving this amendment I am testing the Minister's exact intention regarding subparagraph (vi)(B). It seems to me that it should refer to a direct impact in other council areas and not be of a very vague and general nature.

The Hon. DIANA LAIDLAW: The Government does not support the amendment. The Government's strong view is to promote court action rather than to ensure that a proposal is assessed on its planning merits. The term 'direct' is not defined, nor is it understood in the sense of legal precedence, and it will require a subjective judgment. The difficulty of identifying the 'direct' as opposed to 'indirect' benefits will result in more conflict over the use of this criterion. For example, is the additional traffic in a residential area that is likely to result from development a direct or indirect impact if a residential area is not adjacent to the proposed development? Questions such as that are subjective, and we believe very strongly that this amendment proposed by the Hon. Michael Elliott—I suspect in good faith—is, nevertheless, ill-conceived.

The Hon. M.J. Elliott interjecting:

The Hon. DIANA LAIDLAW: Yes. Therefore, we strongly oppose it because of the uncertainty that it would aggravate and the court action that it would promote.

The Hon. P. HOLLOWAY: The Opposition does not accept the amendment because we believe, as the Minister has just pointed out, that the insertion of more words in this clause would simply make it more likely to be subject to legal action. One of the changes that we all would like to see to the Development Act is less time spent in courts over procedural and technical matters. It is one thing to have a political division over the merits or environmental significance of a project, but the last thing we want is time spent in courts arguing over technicalities. We consider that adding another term would simply result in more, not fewer, legal cases.

The Hon. M.J. ELLIOTT: In fact, the intention was to try to give a little more direction to this clause because it is quite broad as it currently stands. Would the Minister give some examples of the significant impacts where she sees the Minister wanting to exercise this power?

The Hon. DIANA LAIDLAW: I am familiar with an example in the Barossa Valley where three councils were assessing three separate applications for a tourist development, even though everyone agreed that there was justification for only one proposal to proceed. I know that the honourable member would be familiar with the set of circumstances to which I refer. Both he and I raised the almost farcical situation where every council was seeking to do the best for their district council area but none seemed to be able to do the best for the region as a whole.

In the meantime, a lot of expense and unnecessary anxiety was expended within the community on assessing the three separate applications. They subsequently agreed to work together to prepare the Barossa Valley strategic plan, but it took some time—in fact, some years—and only recently has this plan been released. I would say that overall it has probably been an agonising process spanning five or six years not only for the developers but also for the community and councils concerned. We believe that the provisions in the Bill would not allow that situation to be repeated.

The Hon. M.J. ELLIOTT: It is perhaps worth noting that that example from the past is probably not a bad one. I am concerned that there will be things of what I consider a far less significant scale, although some people will want to argue that they are still significant, and we will end up with debates in court about what is and is not significant. The Minister is saying that she wants to see less happening in the courts. As a consequence of council amalgamations, the sorts of problems that she says the Government is seeking to address will be less common because one council will cover all the Barossa Valley.

On the other hand, the Government may decide to drag things away from these larger councils and into DAC, but these councils have a lot more financial muscle and a much greater willingness to go to the courts when they feel they are being done over. The Government is already seeing it in relation to Enfield, which is now amalgamated with Port Adelaide: Port Adelaide and Enfield is even more determined to take on the Collex issue. If they are concerned about things ending up in the courts, taking decision-making powers away from councils will not remove their clear interest, and perhaps these larger and stronger councils will be even more tempted to go to the courts when the Minister seeks to exercise this power.

Amendment negatived.

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

Page 3, line 3—After 'situated' insert:

'and the Minister considers, on reasonable grounds, that if the Minister were not to make a declaration under this section then the relevant council would not be able to determine an application for development authorisation in respect of the development in a manner that gives adequate regard to the impact of the development beyond the boundaries of the council area'.

The amendment is largely self-explanatory. It is trying to make plain that the Minister must believe on reasonable grounds that if he or she did not make a declaration under this section the relevant council would not be able to determine an application for development authorisation with respect to the development in a manner that gives adequate regard to the impact of the development beyond the boundaries of the council area.

Perhaps in relation to the Barossa Valley example that the Minister gave earlier, that situation could be argued relatively easily as the council structures currently stand. However, when you are talking about larger councils with professional planning staff and a planning department within them, councils will be well able to make many of the decisions that perhaps the smaller councils cannot. I do not think it is unreasonable to add these words to that clause.

The Hon. DIANA LAIDLAW: The Government opposes the amendment. In our view, the amendment is unworkable. It requires the Minister to make a subjective judgment about the competency of the council within which the development is proposed to be located. The Bill clearly focuses the attention on the impact of the development rather than on the judgment of the council. As the honourable member is aware, the Bill aims to provide a 'safety valve' in special circumstances, and these amendments will just result in more conflict between State and local government.

I also acknowledge that, in terms of the local government examples in the Barossa Valley, even with amalgamation there will still be two larger council areas. The circumstances I have highlighted earlier, as have arisen with three councils,

could arise with the two. However, one would hope that that is the not the case, and we would not have to utilise this provision in paragraph (B) because of a conflict between those two Barossa councils or elsewhere. This provision allows the situation to happen but does not allow delays to occur if there is such conflict between the two councils.

The Hon. P. HOLLOWAY: The Opposition does not believe this amendment is necessary. Clause 5 provides that the Minister can call in these developments if, in his opinion, the proposed development would have significant impact beyond the boundaries of the council area in which the relevant land was situated. We believe that is clear, precise and broad enough to cover the sorts of problems that would arise and that just tacking on this quite lengthy addendum is really only likely to complicate matters. We really do not see what benefit is likely to be gained from it.

Amendment negatived.

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

Page 3, after line 7—Insert—

(1aaa) If the Minister is considering the making of a declaration under subsection (1)(b)(vi), the Minister must first give the proponent and the relevant council written notice of his or her proposal and allow the proponent and the council at least five business days from receipt of the notice to make submissions to the Minister on the matter.

One hopes that this amendment should not cause the Government any problems, because all it seeks to do is ensure that both the proponent and the relevant council get written notice, at least five business days in advance, of the Minister's making a declaration under this clause.

In the circumstances, that is not an unreasonable request, and both the proponent and the council should be given a chance to comment on that proposal to take it away from council, the proponent perhaps arguing that it needs to be and the council arguing why it feels that this should not be. Otherwise the Government risks further alienation of councils, and the bigger councils that are now forming will find other ways of coming back and involving themselves in the process a little later on. By ensuring that there is constructive discussion at this point, that should decrease the chances of confrontation and increase the chances that we will get proper resolution.

The Hon. DIANA LAIDLAW: I oppose this amendment. We consider it simply to be a delaying tactic that will result in uncertainty for the proponent while the council tries to justify its position. It is considered that it would require a proponent to wait a further five days even though a council might have failed to determine an application within the time limits set out in the regulations. Like so many of the amendments moved by the honourable member, I would also argue that it assumes that there is good faith, goodwill and like mind by all parties, and that discussion will overcome many of the problems that we know have been encountered in the planning and development system for a long time.

We are simply taking action now to make sure that, while there is certain provision for consultation, there is more certainty in terms of the directions that all parties can follow in considering these applications. I also note that this amendment will result in more conflict between State Government and local government, so we are concerned about conflict on various levels.

The Hon. P. HOLLOWAY: The Opposition does not support the amendment, because we believe it would just add additional delay to the system. With its major amendment to this measure, the Government has agreed to narrow the grounds under which the Minister can call in proposals that go before a council. We have accepted that, with that limitation, there ought to be a call-in power to deal with that restricted number of cases, as I indicated when speaking to the last amendment.

The whole purpose of allowing a call-in is to try to reduce the delays for projects. The dilemma is that, by adding another five days here and there, it defeats the purpose of having a call-in in the process. For those reasons, we do not support the amendment. We do not believe that much is likely to be served from it. I also point out that clause 5(c)(vi) provides that the Minister has to declare by notice in writing served personally or by post on the proponent and sent to the relevant council within five days after the declaration is made. They are given notice and they will have their opportunity later down the track to have a say on it.

Amendment negatived.

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

Page 3, lines 8 to 11—Leave out subsection (1a) and insert—

'(1a) If the Minister makes a declaration under subsection (1)(b)(vi)—

(a) the notice under subsection (1)(b)(vi) must include the grounds on which the declaration is made; and

(b) the relevant council may provide the Development Assessment Commission with a report relating to the application for development authorisation within the time prescribed by the regulations; and

(c) if a council in a report under paragraph (b) indicates an interest in making representations before the Development Assessment Commission, the Development Assessment Commission must allow a representative of the council to appear before it to be heard on the matter.'

The Hon. DIANA LAIDLAW: The Government opposes the amendment. We note that it embraces in part new subsection (1a) in the Bill, and that same provision is included in the second part of the honourable member's amendment. Of course, we would be supporting that second part, and I will not delay members by further discussion on that point. Proposed paragraphs (a) and (c) are the new elements that the honourable member is seeking to introduce. Paragraph (a) provides that the Minister will, as a matter of practice, have to advise the council of the criteria that has been used to facilitate the transfer of the determination of the application from the council to the Development Assessment Commission. The current wording of the amendment will only lead to further delays, and I have emphasised our concern about encouraging any form of delay to the whole process. We believe it will lead to further delays as the attention is focused on the grounds rather than on the planning merits of the applications.

We oppose proposed paragraph (c) because the Minister will have already informed in writing a representative of the Local Government Association (the Mayor of Salisbury) and the LGA that this procedural matter has been adopted by the Development Assessment Commission pursuant to section 13(6) of the Act. It is considered more appropriate that all such matters be addressed by the same section of the Act rather than by introducing this element at this place in the Bill.

The Hon. M.J. Elliott interjecting:

The Hon. DIANA LAIDLAW: We are saying it is a procedural matter, yes.

The Hon. P. HOLLOWAY: The Opposition believes that a representative of the council would appear before the Development Assessment Commission if this provision were used, and therefore proposed paragraph (c) is really redundant. In relation to the two previous matters, the comments

I made in relation to the previous clause apply: we believe that it would simply delay the process and defeat the object of this provision.

The Hon. M.J. ELLIOTT: The comments made with respect to delays really has to be the biggest load of rubbish I have heard. The Minister will not make a decision unless the Minister has grounds. One would assume the Minister would not, on the spur of the moment, decide to do it. One hopes it does not occur that way. This is a matter the Minister has considered for some time, has received some evidence about and simply has to ensure that a notice is relayed to the council. What sort of delay are we talking about? Are we talking about minutes or weeks? Clearly, it is the former and not the latter. Obviously, grounds have to exist and when the Minister makes a declaration the council is informed why it happens. There is no cause for delay.

In relation to subclause (c), it may be procedural but it is not legislated. The Opposition and the Government have not said that they oppose the notion that occurs; they are just saying that at this stage it happens, but there are no guarantees that it will continue to happen. I cannot understand why there would be resistance to ensuring it is a right, and surely a right that no-one would question.

Amendment negatived.

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

Page 3, after line 11—Insert:

'(e) by inserting after subsection (2) the following subsection:

(3) Subsection (1)(b)(vi) ceases to have effect on 1 October 2000.'

There are extreme grave reservations in relation to the working of subsection (1)(b)(vi), and I believe it would be appropriate that, having given it some four years of implementation, it is something that we really should re-visit. That is the reason for the sunset clause in relation to that subsection.

The Hon. DIANA LAIDLAW: The Government does not support this amendment. There is no other sunset provision in the Bill or the Act, and this would be an extraordinary step out of context with all the provisions in the Bill and within the Act as a whole. The provisions of subsection (1)(b)(vi) are not sufficiently onerous to warrant the insertion of a sunset clause. I would also indicate that the Government is very keen to work with local government in general, and the Local Government Association in particular, to improve the working of the planning system. We will be doing so over the next few years up to at least 1 October of the year 2000. Therefore, the honourable member's—

The Hon. T.G. Cameron interjecting:

The Hon. DIANA LAIDLAW: That is just based on my perception of the transport portfolio, perhaps, and I will not be too confident in respect—

The Hon. T.G. Cameron interjecting:

The Hon. DIANA LAIDLAW: I never take a thing for granted. I work day and night to make sure that my areas of responsibility will not cause difficulties for me in this place or elsewhere, and so far, so good. In terms of the planning Bill, we are determined to require the same high standards of cooperation between the Minister and the Local Government Association and local government in general. That is why I can say with confidence that we will be working with all those bodies to ensure that we continue to improve planning law and development practice in this State in the community's interests. On that basis, there is no need to have this provision.

The Hon. P. HOLLOWAY: The Opposition does not believe that a sunset clause would serve any real purpose. It is the practice of all planning laws that they tend to be revised fairly often. I would not be surprised if this section of the Act is up for revision before 1 October 2000 if there are any problems with it, but we really do not believe that any legitimate purpose will be served by having the sunset provision. If it does not work, it will have to be amended, and that is the nature of all planning law.

Amendment negatived; clause as amended passed.

Clause 6—'Substitution of division 2 of Part 4.'

The Hon. DIANA LAIDLAW: I move:

Page 3, line 21—Leave out paragraph (b) (and the word 'or' immediately preceding that paragraph).

My amendment deletes the 'State interest' criterion for a ministerial declaration being a development or project within the ambit of the Major Developments or Projects Division. The term 'State interest' has been criticised, for good reason, for being undefined and open and also for being too broad in its interpretation. Rather than seeking to define State interest by reference to the size of the development, the Government decided that it would rely on new section 46(1)(a) of the existing criterion for the Minister's declaration. For that reason I seek to delete the reference to State interest.

The Hon. M.J. ELLIOTT: I support the amendment. This is one issue raised by local government which the Government has addressed and I agree absolutely with the reasons given by the Minister. The term was capable of broad interpretation and had the potential to go well beyond the scope that any reasonable person may consider to be a major development. It might also have been rather sticky in the courts.

Amendment carried.

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

Page 3, line 26—After 'State)' insert '(on the basis that all developments or projects of the specified kind are of major environmental, social or economic importance)'.

The reasons for my amendment are virtually identical to the reasons given by the Minister in moving her previous amendment. It is true that the subclause that I am seeking to amend is the same as that in the Act. The Committee needs to realise that while this has stayed essentially the same, the structure of the Major Developments or Projects Division of what will be the Act has changed substantially in terms of, first, judicial review. The Government proposes to remove it and I think the Opposition will roll over on that one. Secondly, as we have available not only EISs but also PERs and DRs, and there would be a tendency to bring in a much broader range of projects than one would have ever brought in knowing they had to face an EIS.

The intention of my amendment is to make it plain that in specifying a kind of development it should be specified in such a way that at the same time you do not bring in what are clearly minor developments. For example, if the Government by notice in the *Gazette* declared retailing to be a kind of development which, from my reading of the Bill it could do, retailing could be anything from a major regional shopping centre down to a corner deli. The way the division as a whole is now structured, if the Minister was so minded, he could bring in some fairly trivial things—I am not saying the current Minister would do it—by using the all-encompassing term. It seems to me that if the Minister's real interest was regional shopping centres, which had a significant impact throughout metropolitan Adelaide, there would be some sort

of definition and talk about regional shopping or retailing developments over a certain value.

The intention of my amendment is to make it plain that the description given is not just of a generic type of development which is seen to be of major environmental, social or economic importance, but that any individual project, which is brought within the ambit of the division, in its own right would also be deemed to be a major development. After all, it would be patently ridiculous to bring into the ambit of this division individual developments that would not be individually taken to be a major development. Frankly, with the way the division will be structured with other amendments beyond this clause, that will quite likely be the case.

The Hon. DIANA LAIDLAW: The Government opposes the amendment. I highlight that the same wording is already provided for in the current Development Act and that all we have done in restructuring development Bills and Acts is make it clearer for the public to understand and provide less reason for the lawyers to be involved. We have taken this provision from the current Act and put it into the major development assessment provisions. I indicate that the amendment does not recognise the cumulative effect of a large number of small scale developments in environmentally sensitive areas and that these cumulative developments can have a greater impact than a single, large development on any particular area. It is an important point that many people in suburban Adelaide would be wary of. We believe that, because of the experience we have already had with the workings of the current Development Act, there is no ground to change those provisions. Therefore, we embrace, transfer and incorporate the provisions into this Bill. We see no grounds to change them.

The Hon. M.J. ELLIOTT: I acknowledged at the beginning that the subclause I sought to amend in itself is the same as the current Act, but I certainly suggested that one cannot read the subclause in isolation. You have to see it in the context of the division which, in fact, has had some significant change. The Minister suggested that there might be a large number of small developments. I wonder whether she has examples in mind, because I do not believe that up until now this section has been used in that way. If the Minister has something in mind, I would be interested to know what developments or projects she refers to.

The Hon. DIANA LAIDLAW: I have a perfect example: a number of subdivisions in an environmentally sensitive area.

The Hon. M.J. Elliott interjecting:

The Hon. DIANA LAIDLAW: We refer to the cumulative effect of a large number of small scale developments.

The Hon. M.J. ELLIOTT: Why would that not be tackled under zoning or under planning assessment procedures and not under major projects? I should have thought that a housing development as distinct from a house would be a project. In any case, it seems to me that, surely, zoning would have been the way to handle it.

The Hon. DIANA LAIDLAW: I assure the honourable member that, in practice, a subdivision is considered to be a development, not a project.

The Hon. M.J. Elliott interjecting:

The Hon. DIANA LAIDLAW: This is probably one of the honourable member's amendments from a couple of years ago that we are still living with.

Amendment negatived.

The Hon. DIANA LAIDLAW: I move:

Page 4, lines 29 and 30—Leave out 'the Minister under subsection (7)' and insert 'the Major Developments Panel under this section'.

This amendment foreshadows a lot of amendments relating to the new role of the panels and their responsibility in determining the appropriate level of assessment and guidelines for all major developments or projects which are subject to ministerial declaration. I will speak to the major amendments to put this smaller amendment before us in context.

Before doing all of the things that we would envisage arising from the new responsibilities of the panel, the panel must seek public comment on the significant issues relevant to the proper assessment of the development or project and must seek the advice of the Environmental Protection Authority where prescribed activities of environmental significance are involved. The increased role of the panel has been included in the amendments in response to concerns expressed in the debate in another place, in this place and in other discussions with respect to this Bill in the wider community. There was concern at that time that too much power was given to the Minister, and the Government is prepared to accept those concerns on this issue.

The Government also accepted the view that it is critical for the key issues on a major development or project to be identified as early as possible in the process and these foreshadowed amendments accommodate those concerns also. This small amendment foreshadows an extensive range of amendments that I have sought to explain and I hope the whole thing is seen in context.

The Hon. M.J. ELLIOTT: We support the amendment.

Amendment carried.

The Hon. P. HOLLOWAY: I refer to new section 46(2)(b). It provides the power for the Minister to exclude in writing the operation of the environmental assessment for a major project. Will the Minister indicate why it is necessary to include this provision and in what circumstances does the Government intend to use this new section?

The Hon. DIANA LAIDLAW: I am able to advise that the purpose of this new section is to enable the Minister to indicate to the proponent that, based on the information presented, the proposed development will not be declared a major development or project for a given period of time. This provides the applicant with the certainty that the application will be assessed by the council or the Development Assessment Commission in the normal manner. Such a letter will enable the proponent to prepare a timetable in line with the assessment requirement of division 1 of the Act rather than the major developments or projects division.

The effect of this new section is not, as has been mistakenly suggested in some quarters, a back door fast track mechanism for the Minister to have a major development approved without the full EIS, public environment report or development report process being completed. If a proponent receives a ministerial undertaking under this provision, the development will need to be assessed by the development council or the Development Assessment Commission in the normal manner, and the usual public notification of third party appeal rights will still apply. In addition, this provision will provide certainty to an applicant who has received a development approval from a council or the DAC but who has not substantially commenced the development. The applicant can confidently plan ahead in the knowledge that his or her application will not be subjected to a second development assessment process. At this stage, I would also emphasise that, if an application is declared a major development or

project, two facts will be taken into account. First, section 46(5)(e) requires that the EIS, PER or DR must be prepared and that there is no back door alternative; and, secondly, section 48(3) specifies that the Governor cannot make a decision to provide a major development unless the EIS, PER or DR process has been completed.

The Hon. M.J. ELLIOTT: This is not in the current Act. I have put the challenge on a couple of other clauses, and I will do it again. The Government has not demonstrated a need for this. Given that the decision to declare something a major project is at the Minister's discretion, why does the Minister need to put something in writing that closes off that discretion? What is to be achieved by that? If the Minister is not initially aware, for whatever reason—and that reason could be that they were given inadequate information; the developer comes to them with a proposal; the Minister is given certain information but later finds out that there was more to the development than they were first aware of—the Minister has signed off the right to call it in.

It is at the Minister's discretion: if the Minister does not want to call in something he or she does not have to. But why would the Minister sign away the right to call something in when it is possible that the Minister may have been knowingly or unknowingly misled or may not have had full information available at the time that the undertaking was given? I do not understand that. Surely, if the Minister is encouraging development, they can say to the developer, 'Look, on all the information you have given me there is no reason why I would declare it a major project.' To do more than that—to bind himself or herself permanently—seems quite a strange thing to do. I would like to the Minister to give some justification as to why a Minister would give away that discretionary power. While I have questioned discretion, this is discretion which clearly can be used only in the State's interest and which cannot be used against it.

The Hon. DIANA LAIDLAW: I want to clarify the situation for the honourable member. When people are planning a timetable for development, they need to be able to plan with some confidence, in the knowledge that their plan will go before council or through the EIS process and, accordingly, the letter that is provided by the Minister will not permanently bind the Minister. It clearly just sets out the provisions that I have highlighted in terms of the timing sequence. To reinforce my remarks about this letter not permanently binding the Minister I point out that, if conditions change, so do the matters highlighted in the letter and it can become void.

The Hon. M.J. ELLIOTT: I have taken some further advice which indicates that I did not pick up new subsection (3)(b), which probably means that the Minister has not totally fettered himself or herself as I had assumed in my reading of new subsection (2)(b). If that advice is correct, the question has been answered.

The Hon. DIANA LAIDLAW: That was the advice I gave the honourable member. I move:

Page 5, lines 25 to 35, page 6, lines 1 to 19—Leave out subsections (7) to (14) (inclusive) and insert new subsections as follows:

(7) Subject to a determination of the Governor under section 48(2)(a) (in the case of a development), the Minister must refer a major development or project under this section to the Major Developments Panel—

(a) to determine whether the major development or project will be subject to the processes and procedures prescribed by this subdivision with respect to the preparation of an EIS, a PER or a DR; and

(b) to formulate guidelines to apply with respect to the preparation of the EIS, PER or DR (as determined by the Major Developments Panel).

(8) The Major Developments Panel must, on receipt of a referral under subsection (7)—

(a) prepare a document describing the major development or proposal and identifying the significant issues relevant to the proper assessment of the major development or project; and

(b) by public advertisement, give notice of the availability of the document and invite interested persons to make written submissions to the Major Developments Panel within the time prescribed by the regulations on the issues identified in the document, and on any other issues of significance relevant to the proper assessment of the major development or project, to assist the Major Developments Panel in the preparation of the guidelines referred to in subsection (7).

(9) The Major Developments Panel must, in considering the level of assessment that should apply to a major development or project (i.e. whether a major development or project should be subject to the processes and procedures associated with the preparation of an EIS, a PER or a DR), take into account criteria prescribed by the regulations.

(10) If a major development or project involves, or is for the purposes of, a prescribed activity of environmental significance as defined by the *Environment Protection Act 1993*, the Major Developments Panel must, in formulating guidelines under this section, consult with the Environment Protection Authority within the time prescribed by the regulations.

(11) The major Developments Panel must, after completing the processes referred to above, report to the Minister on—

(a) its determination with respect to the level of assessment that should apply to the major development or project; and

(b) the guidelines to apply under this subdivision with respect to the preparation of the relevant EIS, PER or DR.

(12) The Minister must, on the receipt of a report under subsection (11)—

(a) give a copy of the report to the proponent; and

(b) by public advertisement, give notice of—

(i) the Major Developments Panel's determination under this section; and

(ii) the place or places at which copies of the guidelines formulated by the Major Developments Panel are available for inspection and purchase.

(13) The Major Developments Panel should deal with a referral as quickly as possible and in any event, unless the Minister otherwise approves, within the time specified by the Minister (taking into account the time periods prescribed by the regulations for the purposes of this Division).

(14) The Minister or the Major Developments Panel may require a proponent to furnish specified information (additional to the information required under subsection (6)) for the purposes of the operation of this section.

I have already spoken to the amendment.

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

Page 5, lines 25 to 35, page 6, lines 1 to 19—After proposed new subsection (10) insert new subsection as follows:

(10a) The Major Developments Panel must, in formulating guidelines under this section, classify the issues identified by the Major Developments Panel as being relevant to the proper assessment of the major development or project according to categories of importance so as to indicate the levels of attention that should be given to those issues in the preparation of the relevant EIS, PER or DR, and the Assessment Report.

This is a further amendment to the Minister's amendment. I support the Minister's amendment. This is part of a suite of amendments which we debated at the very beginning in relation to major developments. It was acknowledged in the previous discussions that one of the problems with environmental assessment was that, when guidelines are set up, there might be 100 issues, 97 of which are absolutely trivial and two or three of which are important, but when the assessment report is released one finds that the environmental impact

statement spends as much time on the trivial issues as it does on the major ones. My amendment would ensure that, when the major development panel sets up the guidelines, it should give a very clear instruction to the developers as to the issues they see as being of major importance.

Not only does that mean that the assessment report should put more emphasis on those issues and that more research effort and so on should go into those issues but, at the same time, it is very clearly flagging to the developers where the potential weaknesses might be. It is a good amendment because in later amendments it is intended that there might be some flexibility in terms of the developer perhaps changing the project slightly and then continuing on, rather than the problem we have at the moment where much time passes before the developer realises where the problems might be. So, I indicate support for the Minister's amendment, but I seek to amend it further to ensure that the major issues are clearly identified at the beginning of the process.

The Hon. P. HOLLOWAY: The Opposition believes that the Democrat amendment is worth while and that it improves the situation. Consequently, the Opposition supports the amendment.

The Hon. M.J. Elliott's amendment carried; The Hon. Diana Laidlaw's amendment, as amended, carried.

The Hon. DIANA LAIDLAW: I move:

Page 6, line 23—Leave out 'advisory panel' and insert 'Major Developments Panel'.

This amendment is consequential.

Amendment carried.

The Hon. DIANA LAIDLAW: I move:

Page 6, lines 24 and 25—Leave out all words in these lines after 'when' in line 24 and insert 'a major development or project is referred to the major developments panel under section 46(7)'.

This amendment is also consequential.

Amendment carried.

The Hon. DIANA LAIDLAW: I move:

Page 6, line 28—Leave out paragraph (b) and insert:

(b) a member of the Environment Protection Authority appointed by the Minister;.

The increased role of the Major Developments Panel will mean that the panel will have to meet more frequently than was originally intended. The Presiding Member of the Environment Protection Authority has indicated that he would have difficulty meeting the increased time commitments required by the changes. It is therefore proposed that the Minister nominate a member of the EPA as a member of the panel and another member of the EPA as a deputy. This provides added flexibility in the choice of EPA representation on the panel.

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

Page 6, line 28—Leave out paragraph (b) and insert—

(b) the chief executive officer of the Environment Protection Authority (*ex officio*), or a person nominated by that chief executive officer;.

My amendment is a clear alternative to the Minister's amendment. In the discussions that we had late last year about handling major developments, we had already come up with the concept of having an independent panel. One thing that we did not manage to sort out was the precise membership of such a panel. We all agreed—that is, conservation groups, local government and the Employers' Chamber—that an independent panel would be useful, but we found the actual membership of it to be a slightly difficult question.

I think we should ask why we should have a representative from the EPA on the panel. I hope that we would do that because of the EPA's expertise in environmental protection. Not all members of the authority are experts in that area. As I understand it, the head of the EPA is a lawyer with no expertise at all in strictly environmental questions. That is not a denigration but a statement of fact. I think that there is real value in getting as much expertise as possible onto this panel. It is like a Government which is setting up various bodies to run organisations and which says, 'We want various expertise on the body.' A body that will be asking environmental questions should have a significant amount of environmental expertise on it.

It is my view that, rather than having a member of the authority, we should look in the first instance to the Chief Executive Officer of the EPA but then recognise that a number of panels may be formed and that that person may have some constraints. The Chief Executive Officer could then nominate somebody else from within the EPA. I would expect that in so doing the CEO of the Environment Protection Authority would be aware of any application and would seek to put onto the panel someone with the relevant expertise. Such a person would make a more valuable contribution to the panel than would a member of the authority itself. As I said, it is not denigrating the people who make up the authority: it is just that I do not think that for the most part they would have the relevant expertise.

There is no doubt that the panel will have to seek other advice, but it is easier to understand advice if you have some relevant expertise. For that reason I have moved my amendment. I am not supporting the Government's amendment, which is occurring largely because the head of the EPA did not want to be the person, as I understand it, and was suggesting that perhaps someone else should do it.

The Hon. P. HOLLOWAY: I do not think anyone would argue with the fact that someone who has substantial standing within the Environment Protection Authority should be on the Major Developments Panel. If the Hon. Michael Elliott's amendment was accepted, the Chief Executive Officer of the Environment Protection Authority would be placed in a situation on the board where he would have to judge submissions from his own agency. The Chief Executive Officer is an officer of the authority, and he must—

The Hon. Diana Laidlaw: Sign off.

The Hon. P. HOLLOWAY: Yes, sign off on the submissions that would be going to the Major Developments Panel. That is the difficulty we see with the Hon. Michael Elliott's amendment. It is unfortunate that the Government is moving this amendment because of some unwillingness on the part of the head of the EPA, but I do not see how we can do anything other than accept it if the Presiding Member believes, for one reason or another, that he has some problem sitting on the panel because of the workload involved.

On most Government panels and boards there is provision for delegates. In the circumstances, the Opposition believes that it has little choice but to accept the Government's amendment because, if we accept the Hon. Michael Elliott's amendment, conflict of interest problems could arise.

The Hon. M.J. ELLIOTT: This is not an attempt to be critical of the Government. I was trying to address the issue of having as much relevant expertise on board as possible. The current structure has six people on the panel. It is likely that only two will have any significant or potentially significant understanding of the questions that they may be asked to address. As I said, a number of groups which had looked at this question were struggling with this issue. Regardless of

what happens with this amendment, it is something that the Government should consider further.

I will make the alternative suggestion that some form of scientific panel should be set up which might have a number of members on it and from which the Minister can draw people, depending upon to what the particular project relates. There might be a replacement or expansion on paragraph (d). There needs to be some way of getting several members onto the panel who have the sort of knowledge necessary to answer the questions they are being asked to answer. It is not critical of the concept of the panel. Last year, most of us reached the conclusion that that needed to happen. It is a question of how to get a suitable panel formed.

I was attempting to recognise that the EPA people themselves more often than not will not have the relevant expertise. It seems to me that, perhaps from within the EPA itself, we may be able to draw people—and when I say the EPA, I mean the officers. There may be other ways of getting that expertise, perhaps by further amendment to paragraph (d). It is worth addressing, because we want to give this panel a real chance of being able to do the job that we have given it to do.

The Hon. DIANA LAIDLAW: And it will.

The Hon. Diana Laidlaw's amendment carried.

The Hon. DIANA LAIDLAW: I move:

Page 7, line 2—Leave out 'advisory panel' and insert 'panel'.

This amendment is consequential.

The Hon. P. HOLLOWAY: I support the amendment.

Amendment carried.

The Hon. DIANA LAIDLAW: I move:

Page 7, line 6—Leave out 'presiding'.

Again, this is considered to be consequential.

Amendment carried.

The Hon. DIANA LAIDLAW: I move:

Page 7, lines 7 and 8—Leave out 'nominated by the presiding member of that authority'.

This is consequential.

Amendment carried.

The Hon. DIANA LAIDLAW: I move:

Page 7, line 9—Leave out 'advisory panel' and insert 'panel'.

This is also consequential.

Amendment carried.

The Hon. DIANA LAIDLAW: I move:

Page 7, after line 11—Insert:

(3a) The Minister may remove a member of the panel from office for—
- (a) breach of, or failure to comply with, the conditions of appointment;
- (b) misconduct;
- (c) neglect of duty;
- (d) incapacity to carry out satisfactorily the duties of office;
- (e) failure to carry out satisfactorily the duties of office.

(3b) The office of a member of the panel becomes vacant if the member—
- (a) dies; or
- (b) completes a term of office and is not reappointed; or
- (c) resigns by written notice addressed to the Minister;
- (d) is removed from office under subsection (3a).

This amendment relates to conditions under which a Minister may remove a member of the panel from office. It adds provisions relating to the conduct of the panel and panel vacancies, and these provisions are identical to those currently in the Act for the Development Assessment Commission and the Development Policy Advisory Committee. They were added because of the increased responsibilities proposed for the panel in amendments to clause 6.

The Hon. P. HOLLOWAY: The Opposition supports the amendment.

Amendment carried.

The Hon. DIANA LAIDLAW: I move:

Page 7—
Line 12—Leave out 'advisory panel' and insert 'panel'.
Line 15—Leave out 'advisory panel' and insert 'panel'.

These amendments are consequential.

Amendments carried.

The Hon. DIANA LAIDLAW: I move:

Page 7, after line 15—Insert:

(5) The panel may, with the approval of the Minister, delegate a power or function under this Division, other than the power to make a determination under section 46(7)(a) or to finalise guidelines under section 46(7)(b)—
- (a) to a particular person; or
- (b) to the person for the time being occupying a particular office or position.

(6) A delegation—
- (a) may be made subject to conditions and limitations specified in the instrument of delegation; and
- (b) is revocable at will and does not derogate from the power of the panel to act in a matter.

This will allow the panel to delegate administrative functions. Such delegations will be important if the panel is to operate effectively and without undue delay. However, the amendment specifically precludes the panel from delegating decisions on either the level of assessment or the final guidelines.

The Hon. M.J. ELLIOTT: I support this amendment. It is consequential on previous amendments. However, it is clear that we cannot expect the panel to do its task alone, and there will be a need to delegate to officers within the Government departments some of the legwork that needs to be done.

The Hon. P. HOLLOWAY: The Opposition supports the amendment.

Amendment carried.

The Hon. DIANA LAIDLAW: I move:

Page 7, lines 22 and 23—Leave out 'the Minister' and insert 'the Major Developments Panel under this subdivision'.

This is consequential.

Amendment carried.

The Hon. DIANA LAIDLAW: I move:

Page 7, lines 24 to 30—Leave out subsections (4) and (5).

This is also consequential. However, I add that this means that the Minister will no longer be responsible for the preparation of guidelines for an EIS.

Amendment carried.

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

Page 8, line 19—Leave out 'refer the EIS' and insert 'ensure that the EIS is referred'.

This is one of a whole suite of amendments that are of a similar nature. When I spoke with Parliamentary Counsel, I gave an instruction that I wanted amendments prepared that would seek to separate what I see as political decisions from assessment decisions, which are scientific and which, in some cases, involve social questions.

I will move a major amendment to this clause at page 15, but I also told Parliamentary Counsel that, so far as the language elsewhere does not make plain that there is a separation of the Minister's being in charge of the process as distinct from the Minister's giving specific directions to officers of a political nature, I wanted the language changed.

Most of the amendments that appear on the next couple of pages of my file of amendments are of that nature. They are just small changes in language that reflect a separation of the Minister from the process other than those particular acts that are required of the Minister under this legislation.

The Hon. DIANA LAIDLAW: The Government opposes this amendment and all related amendments, and there are many to clause 6, spreading over pages 8, 9, 11, 12, 13 and 14. The honourable member intends to change the basic nature of the current process associated with the assessment of major developments which have been established as part of the planning review. These amendments take away the responsibility of the Minister to make sure that the processes are properly undertaken, and this would mean that the degree of parliamentary scrutiny was reduced. The Government would not accept that.

The Hon. P. HOLLOWAY: The Opposition has some concerns with the thrust of these amendments, because they could be unduly restrictive. It was my understanding from all the discussions that various groups have been having that, rather than having these processes of assessment carried out in isolation, there should be some involvement all the way along the line so that we can get better outcomes, so that we can speed the process, and so that the signals can be given that, if there is a problem, it can be picked up earlier in the process.

One of the dilemmas we see is that, if we go down the track of trying to take the Minister right out of the decisions altogether, it could be unduly restrictive and there would be no opportunity for ministerial input. In issues of planning, it is inevitable that the political system will be involved—that the Minister will need to be involved. Many of these issues are political. That is our major concern with the thrust of the Democrat amendment.

Amendment negatived.

The Hon. DIANA LAIDLAW: I move:

Page 10, lines 4 and 5—Leave out 'the Minister' and insert 'the Major Developments Panel under this subdivision'.

This amendment is consequential.

Amendment carried.

The Hon. DIANA LAIDLAW: I move:

Page 10, lines 6 to 11—Leave out subsections (4) and (5).

This amendment is also consequential.

Amendment carried.

The Hon. DIANA LAIDLAW: I move:

Page 11, line 12—Leave out '20' and insert '30'.

This amendment increases the minimum period of public consultation for a PER from 20 working days to 30 working days. The minimum period of consultation for a PER will now be the same as for an EIS.

The Hon. P. HOLLOWAY: The Opposition strongly supports this amendment. The Government agreed to this change in its negotiations. It extends the time given for consideration of a PER, and we certainly support this measure.

The Hon. M.J. ELLIOTT: The Democrats also support the measure. In fact, we indicated in meetings with the Government that we thought 20 days would be too short, so we welcome the change to 30 days. I make an aside comment at this stage because we may want to revisit this at some stage. Under the environmental impact assessment process we are within guidelines distinguishing between major and minor issues, and the like. I believe, and have always believed, that trying to decide whether you should have an EIS or a PER was a fairly arbitrary thing in some cases, anyway. It was my view that perhaps it should be just an EIS and a DR process and that, under the guidelines, the panel would suggest how many issues needed to be addressed and how many it considered to be major. I think that the difference between an EIS and a PER is arbitrary and probably more trouble than it is worth. That is something that we may re-visit later on. In any event, the extension from 20 to 30 days is necessary to allow proper consultation involving the public to occur.

Amendment carried.

The Hon. DIANA LAIDLAW: I move:

Page 12, lines 18 and 19—Leave out 'the Minister' and insert 'the Major Developments Panel under this subdivision'.

This is a consequential amendment.

Amendment carried.

The Hon. DIANA LAIDLAW: I move:

Page 12, lines 20 to 25—Leave out subsections (4) and (5).

This is consequential. The Minister will no longer be responsible for the preparation of guidelines for a DR.

Amendment carried.

The Hon. DIANA LAIDLAW: I move:

Page 13, line 22—Leave out '10' and insert '15'.

The minimum period for public consultation for a DR is proposed to be increased from 10 working days to 15 working days.

The Hon. P. HOLLOWAY: The Opposition supports this change. This extends the consultation period which was part of the changes that the Government has made to this Bill as a result of the consultations that it has had with the various parties. We certainly support this additional consultation period for development reports.

The Hon. M.J. ELLIOTT: We support it.

Amendment carried.

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

Page 14, after line 30—Insert:

(ab) unless the proposed amendment is of a minor nature only, the Minister must refer a proposed amendment to an EIS, PER or DR to the Major Developments Panel for advice;.

I think there was general agreement with the groups with whom I had been discussing this issue that there was a great deal to be achieved by giving flexibility to the proponent in terms of seeking to amend the application in the light of information being received. It seems it could happen anywhere through the process, from the guideline stage to when the environmental impact assessment itself is well under way. That added flexibility will give a much greater chance of the development succeeding. If there is a problem, rather than being avoided, which is the case now, it will be addressed. Many of the problems are capable of being addressed in a relatively easy manner, whether it is a change in location, form, process carried out in the plant, or whatever. It seems to me that, if there is a change other than one of a minor nature, in seeking to address one problem, sometimes a new one may be created. For instance, if you did change the location, you may have moved away from an Aboriginal heritage site, but you may have gone right onto a creek line or something else.

It seems to me that the Minister should seek advice independently and the Major Projects Development Panel, the panel which is already setting up the guidelines, should be asked, 'This is not a minor change. Do you feel that any particular issues need to be addressed?' In my amendment there is no need to go through the whole public consultation

process again. Some people would argue that that would be a good thing, but I am not asking for that. I am simply asking that, if there is a change to the proposal, it be referred to that panel for its advice to the Minister. I am asking for nothing more nor less than going to the independent body for advice. I am fully supportive and have argued strongly that having flexibility and being able to change the project during the assessment process could be a good thing and that, from both the developer's and the community's perspective, there are real gains to be made. All I am asking is something of a relatively minor but important nature.

The Hon. P. HOLLOWAY: The difficulty the Opposition has with this amendment is the role we see for the Major Developments Panel. We see the panel as a body of expertise at assessing a broad project in terms of anticipating where problems are likely to arise. We believe that, when some problem has been identified during an environmental impact assessment or one of the other two types of assessment, it is likely to be of a technical nature and we are not sure that the panel is the right body for that sort of technical advice. As the Bill reads now, the matter goes back to the Minister and we would interpret that it would be the department and the technical experts in the Government through the Minister who would look at such matters. We believe that that would be a more appropriate way of doing it. We see the panel as being more the independent body that will assess the broad parameters under which the matters ought to be assessed, rather than the specific technical details.

That is the problem we have with the amendment. I accept the Hon. Mr Elliott's point that in those discussions he has argued for flexibility. One of the important changes that will come out of the Bill is that, rather than having to have an environmental impact assessment run its full course, even when early in the process problems are identified, problems can be picked up early and remedied and, therefore, the ultimate approval could be made much earlier than otherwise would be the case. I acknowledge that the Hon. Mr Elliott has accepted that in the debates. The problem that we have with the amendment is that we think it would be better for the matter to go back through the Minister to the technical experts when the problems are identified rather than going back to the panel, which we see having a much broader role to undertake.

The Hon. DIANA LAIDLAW: The Government does not support the amendment.

The Hon. M.J. ELLIOTT: For the record, plainly, the amendment is not intended to scuttle something for which I have been a strong proponent and it does not preclude the Minister's going to anyone else for advice as well. The amendment simply requires the Minister to seek advice from the panel—not solely from the panel—and no complex procedure is involved. If the panel has been involved in drawing up guidelines, it has a good overview of the things wanting to be addressed and would have a view as to whether or not a change has created new issues. Obviously, the hope is that the change is one that has solved the problem and it goes away, but we have to recognise that there may be times when the change of form or process can create new questions.

For instance, if you are building a paper mill based on chlorine bleaching, there is a series of questions you would ask in relation to its by-products. But if you change to mechanical pulp processing and peroxide treatment there might be a different set of questions that will be asked. As I said before, by changing location and seeking to solve one problem there is the potential that you might create a new one. That is not what you seek to do, but it may happen. This impartial body that we have already entrusted with the role of giving guidelines could come back to the Minister and say, 'Well, in our view there are no additional new problems' or 'In our view perhaps inadvertently there is a question here, which was not a question before, that needs to be answered.'

Amendment negatived.

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

Page 15, after line 6—Insert new section as follows:

Minister not to influence certain outcomes

47A. Subject to any provision that gives the Minister express power to act in a particular manner, the Minister must not seek to influence the outcome of—

(a) an assessment or determination of the Major Developments Panel under section 46; or

(b) an assessment or recommendation undertaken or made during the preparation of an EIS, PER or DR under this subdivision.

This clause is capable of standing alone, despite the fact that there was no support for earlier clauses in relation to the separation of the Minister from the process. As I have argued before, we have to distinguish between what are political questions and what are questions of fact, questions of whether or not there is likely to be some form of environmental or social impact. With this amendment I am seeking to ensure that the Minister does not seek to influence the outcome of an assessment or determination of a major development panel under section 46 or an assessment or recommendation undertaken or made during the preparation of an EIS, PER or DR under the subdivision.

As I have said in this place on previous occasions, I know of several instances where Ministers have given specific instruction for reports to be rewritten and they have not been rewritten on the basis of trying to improve the accuracy of the report but to try to change the information that would come out publicly. I do not believe that any political role whatsoever should be played in the assessment itself. The Minister should not seek to in any way influence the assessment or determination.

That is quite a different question from the panel having constructed guidelines and an environmental impact assessment having been carried out to the Minister saying, 'On the basis of the information that has now resulted from this process, this is the decision that I make as to whether or not the project should proceed'. That is a political question, whereas the earlier example is not. The Government has now accepted the notion that we should have an independent panel—or at least, it is set up as an independent panel—and that it should set up the guidelines. I am really saying that we should go that step further and make quite plain that the Minister should not seek to influence the outcomes of the assessment. That is not an appropriate political role to be carried out. It has happened in the past under previous Ministers, and I know of one case where somebody in DAC was approached by the Minister seeking to put a view in relation to something that was before DAC. That is not on.

The Hon. DIANA LAIDLAW: The Government does not support the amendment. As the honourable member noted, the intent is to change the basic nature of the current processes associated with the assessment of major developments which were established as part of the planning review. This amendment seeks to take away the responsibility of the Minister to make sure that the processes are properly undertaken. That does not imply that the Minister will bastardise the report or make radical changes contrary to what is in the report or even changes just of emphasis, but we do think ultimately that to take away any responsibility that is

currently provided in the legislation (and essentially it would mean all responsibility for the Minister) in terms of influencing the outcome of these assessments or determinations of the major assessment panel is neither necessary nor acceptable.

The Hon. P. HOLLOWAY: When we were addressing an earlier amendment to clause 6, page 8, line 19, I indicated the Opposition's position on the thrust of the Hon. Michael Elliott's amendments, so I will not go through that again in detail. Basically, we believe that this provision is unduly restrictive, that the planning is by nature a political process and that the Minister has to be involved. If we are to get the flexibility which I would have thought was the objective that all of us wanted from this project, the Minister—and we interpret that to mean the Minister's department, and the Minister is the vehicle through which the department and the technical experts become involved—must ensure that that happens. The department must become involved if we are to identify problems that crop up during the assessment process. That was the difficulty that we had with the Hon. Mr Elliott's amendment.

The Hon. M.J. ELLIOTT: When one is debating with two people who both come to the Committee under instruction it is a damn difficult debate to carry out because one knows that they have the voting instruction before one puts one's argument. The best one can hope for is to put the argument on the record so at least people know why. That is the position in which I find myself in relation to this whole Bill. There has been no persuasion of anyone on anything tonight. Rather, it has been something of a set piece from beginning to end.

It is plain that this proposed new section talks about influencing the outcome of an assessment or a determination. It does not limit the Minister in any other way. It does not limit the Minister in terms of perhaps suggesting to the proponent that there might be particular ways to go which the Minister would encourage. This is not precluding the political decision about whether the project proceeds. It is directed entirely at assessment or determination.

Will the Hon. Mr Holloway explain how the Minister influencing the assessment or the determination is an appropriate political action? I have said repeatedly that I do not question that there is a political decision to be made about whether or not a project proceeds. However, that is not what is being proposed at all. I am asking both the Hon. Mr Holloway and the Minister whether or not they think it is appropriate that a Minister can tell people to rewrite reports for the sole purpose of influencing the assessment or determination. I am trying to stop that because it has happened on a number of occasions in the past. It seems to me that that process is being defended at this stage by the Government and the Labor Party.

The Hon. P. HOLLOWAY: First, I correct the inference that the Opposition is in some way acting under instructions. Certainly, the Opposition has been involved in many negotiations to try to get a better outcome for this Bill, and we believe that we have achieved it. This Bill in its final form may not be the way we would wish it to be. Nevertheless, as a result of our negotiations, it will be much better than it could have been.

In relation to the point that the Hon. Mike Elliott has just made, the problem arises in the definition of 'influence'. The problem that we have with this amendment is that it could unduly restrict the input that the Minister and officers of his department—we are not just talking about the Minister personally—could make to the assessment and determination process. It may very well be that the department can usefully contribute during the assessment and determination process to make the whole system work better.

As I said, that is the way in which the Opposition has been coming at this whole Bill. We are trying to be constructive. We are trying to look at ways in which we can make the planning system work better for this State while still allowing appropriate consultation and protecting the interests of those who are affected by development proposals. We do not see that the honourable member's amendment would advance the cause and, if anything, it could detract from it.

I do not question the Hon. Mike Elliott's intention. Certainly, we would not want the Minister to be in some way influencing outcomes in some corrupt way, which seems to be what the honourable member is implying. The problem with the proposed new provision is that it would prevent any reasonable input from the Minister or his department.

The Committee divided on the amendment:

AYES (2)

Elliott, M. J. (teller)	Kanck, S. M.

NOES (15)

Cameron, T. G.	Griffin, K. T.
Holloway, P.	Irwin, J. C.
Laidlaw, D. V. (teller)	Lawson, R. D.
Lucas, R. I.	Nocella, P.
Pfitzner, B. S. L.	Pickles, C. A.
Redford, A. J.	Roberts, T. G.
Schaefer, C. V.	Stefani, J. F.
Weatherill, G.	

Majority of 13 for the Noes.

Amendment thus negatived.

The Hon. DIANA LAIDLAW: I move:

Page 18, after line 5—Insert—

48AB. The Governor or the Minister may permit a proponent to vary an application (and any associated documents) lodged under this division (provided that the relevant development or project remains within the ambit of an EIS, PER or DR, and an assessment report (either as originally prepared or as amended under this division)).

During the discussions on the Bill, it has been pointed out that a major development is most unlikely to remain unchanged from the time it is first lodged. For example, plans may need to be amended in order to address environmental concerns raised in submissions on an EIS, PER or DR. This amendment will allow a proponent to vary their application without having to lodge a new one. However, if the variation is significant the EIS, PER or DR may have to undergo further public consultation pursuant to the provisions of section 47.

Amendment carried.

The Hon. DIANA LAIDLAW: I move:

Page 19, line 8 and 9—Leave out 'Advisory Panel' and insert 'Major Development Panel'.

Amendment carried.

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

Page 19, line 12—Insert—

(2) Subsection (1) does not apply in the case of a manifest error of law.

This amendment is one of the major issues that has caused concern in the community generally and with local government and, I might say, amongst a number of senior people such as Brian Hayes QC whom I quoted during the second reading stage last night. The Government under proposed new section 48D is seeking to remove judicial—

The CHAIRMAN: Order! There are people talking in every corner and I cannot hear what the honourable member is saying. I ask members to resume their seats or quieten down.

The Hon. M.J. ELLIOTT: Thank you, Sir. The Government is seeking to remove judicial review from decisions or determinations of the Governor, the Minister or the advisory panel. Most people would say that to do so in a democracy is grossly unacceptable. My understanding is that under the Development Act and the Planning Act, there has been only one case of judicial review in relation to a major project. You have to ask the question: what is the Government trying to fix by this amendment?

Some people believe that, in fact, the Minister intends to use the major projects division more than it has been used in the past and the removal of judicial review means projects that once would never have qualified as major projects—and would not qualify if they could be subject to judicial review—will be ripped through the system. Ripping it through this system means that it is not going through the normal planning processes. It does not go to local government and it does not go to Development Assessment Commission. The Minister calls it in as a major project and then decides whether or not it proceeds. Further, the Government does not want that process to be subject to judicial review. That is a gross abuse of any reasonable process.

Members can understand why this clause is causing more upset in the community than any other part of the Bill. It is a gross abuse of normal processes in a democracy. Unfortunately, we do not have a democratic Government here in South Australia: it seems to take the view that it should be an elected dictatorship.

It is my preference to oppose the whole clause but, in the first instance, I move the amendment at least to make plain that this clause should not apply in the case of a manifest error of law. I ask the Government: why does it not want judicial review when there has been a manifest error of law? I think that the whole clause is indefensible but, knowing that the Opposition was not likely to support my position (and that is extremely disappointing)—

The Hon. R.R. Roberts interjecting:

The Hon. M.J. ELLIOTT: We will look at what you are doing in relation to Collex to show the hypocrisy in which you have involved yourselves: it is the most amazing triple pike reverse somersault that has ever been performed, and certainly a 10 on any scale. The amendment at least provides that, if there has been an error of law, there should be judicial review. If the Opposition cannot support that, one must question its commitment to anything that is decent.

The Hon. DIANA LAIDLAW: The Government argues that this amendment is unnecessary, and it is not supported on that ground. We argue that it will lead to Supreme Court challenges on the interpretation of what is 'a manifest error of law'. The Government understands that section 48D would not stop Supreme Court action being taken where there has been a blatant abuse of process, such as the halving of the public consultation period for an EIS as specified in the Act. I note the contribution from the Hon. Paul Holloway. Yesterday, in his second reading contribution, he quoted a number of legal cases to show that the courts have said, 'The Government really cannot, through a judicial review exclusion clause, be able to breach the provision of an Act and expect people not to take action against the Government.' The proposed amendment is simply unnecessary in these circumstances.

The Hon. P. HOLLOWAY: As the Minister has just said, I did address this matter in some detail during my second reading contribution. We have given great consideration to the question of judicial review under a number of Bills. In fact, the three key people involved in this Bill were also involved in a similar consideration when the Local Government (Boundaries Reform) Amendment Bill came up. The advice we received at that time, after extensive investigation, was that it was unnecessary. No provision was included in that Bill, and the Local Government Board, under the same Minister, has worked quite well. There has been no suggestion of any breach or abuse of that Act. Given all the legal advice that we have had and all the precedent in case law, it is our understanding that an amendment along the lines the Hon. Mike Elliott suggests is completely unnecessary, because it is the case.

The Hon. M.J. ELLIOTT: Why do we need a clause that has not been in planning legislation for 15 years? As I understand it, there has been one case for judicial review in those 15 years. What is the Government attempting to do by the insertion of this clause?

The Hon. DIANA LAIDLAW: As the honourable member should appreciate, there is an increasing review on the ground of judicial review by competitors to projects. It is a trend that the Government would like to address at this stage before it encourages those who would seek to frustrate legitimate projects.

The Hon. M.J. ELLIOTT: For the record, there are no problems in South Australia in relation to major projects. The Minister has failed to come forward with one because there is none. The Minister is not fixing a problem but setting about creating one. At this stage, I note that the Opposition has an amendment on file which touches on the same sorts of matters. I find it intriguing that—

The Hon. P. Holloway interjecting:

The Hon. M.J. ELLIOTT: No. I find it intriguing that they will offer judicial review in relation to some cases that already exist, for instance, Collex. Why is it that the Collex case should be entitled to judicial review but, if an issue identical to that of Collex came up tomorrow, it would not be capable of judicial review? Where is the consistency in that? Where is this matter of principle that the Minister is pursuing? The Minister seeks to protect certain projects that have been before the Supreme Court—

An honourable member: It's a question of retrospectivity.

The Hon. M.J. ELLIOTT: It's not a question of retrospectivity at all. This is political, nothing more or less than that. Everybody can see through it, and you will be exposed for it.

The Committee divided on the amendment:

AYES (2)

Elliott, M. J. (teller)	Kanck, S. M.

NOES (17)

Cameron, T. G.	Griffin, K. T.
Holloway, P.	Irwin, J. C.
Laidlaw, D. V. (teller)	Lawson, R. D.
Levy, J. A. W.	Lucas, R. I.
Nocella, P.	Pfitzner, B. S. L.
Pickles, C. A.	Redford, A. J.
Roberts, R. R.	Roberts, T. G.
Schaefer, C. V.	Stefani, J. F.
Weatherill, G.	

Majority of 15 for the Noes.

Amendment thus negatived; clause as amended passed.

Clause 7—'Crown development.'

The Hon. DIANA LAIDLAW: I move:

Page 20, line 16—Leave out 'the Minister' and insert 'the Major Developments Panel'.

This is consequential.

Amendment carried; clause as amended passed.

Clauses 8 and 9 passed.

Clause 10—'Applications for mining production tenements to be referred in certain cases to the Minister.'

The Hon. DIANA LAIDLAW: I move:

Page 20, after line 33—Insert:

(aa) by striking out from subsection (4)(a) 'on the Minister' and substituting 'on the Major Developments Panel'.

This is consequential.

Amendment carried.

The Hon. DIANA LAIDLAW: I move:

Page 21, line 2—Leave out 'on the Minister' and insert 'on the Major Developments Panel'.

This is consequential.

Amendment carried.

The Hon. DIANA LAIDLAW: I move:

Page 21, line 3—Leave out 'report' and insert 'reports'.

This is consequential.

The Hon. DIANA LAIDLAW: I move:

Page 21, line 8—Leave out 'the Minister's'.

This is consequential.

Amendment carried; clause as amended passed.

Clauses 11 to 13 passed.

Clause 14—'Transitional provision.'

The Hon. P. HOLLOWAY: I move:

Page 22, after line 16—Insert new subclauses as follows:

(2) Section 48D of the principal Act, as enacted by this Act, does not apply so as to affect the rights of any person in respect of a proposed development or project that has been the subject of Supreme Court proceedings relating to an application under Division 1 of Part 4 of the principal Act commenced before 30 July 1996 (even if those proceedings have been settled or determined.)

(3) For the purposes of subsection (2), a proposed development or project that is a variation on a proposed development or project that has been the subject of Supreme Court proceedings will be taken to have also been the subject of Supreme Court proceedings before the relevant date (provided that the essential nature of the development or project has not changed).

The purpose of this amendment is to prevent the Government from calling in a proposal that has already gone through the judicial process. I believe the comments made by the Hon. Mike Elliott earlier distort the situation. This amendment prevents having two bites at it. However, as I indicated during the second reading debate, in relation to the Collex development, the Government has clearly stated that it would not call it in, and I ask the Minister to reiterate that now. In any event, advice sought by the Opposition is that it would not be possible for the Government, under the Act as it will be amended, to call that in.

We are moving this amendment to ensure that development proposals that have been the subject of Supreme Court proceedings cannot be called in to defeat that procedure. Despite what the Hon. Mike Elliott said, I think it is quite reasonable that, where a project has already been before the courts and treated under the existing law, it should not be subject to a new law. I think that is an entirely reasonable and consistent policy under development. I reject the arguments of the Hon. Mike Elliott. I reiterate that this amendment is probably unnecessary, but makes it crystal clear that developments such as the Collex development, which the Labor Party opposes, has consistently opposed and will continue to oppose, cannot be called in by the Minister.

The Hon. M.J. ELLIOTT: I will support this amendment because if there is any chance of offering protection to a small number of projects in terms of judicial review that is better than none of them having it, and this is really what this amendment is doing. No-one in this place actually believes what the Hon. Mr Holloway just said, and I can tell members that no-one in local government or conservation groups will believe it either. The words might be written down as a record in *Hansard* but that does not turn them into truth, and that is the way of the world.

The Hon. DIANA LAIDLAW: I support the amendment.

The Hon. P. HOLLOWAY: I remind the Hon. Mike Elliott that the Collex development was considered through the council and the Development Assessment Commission: it was not a major project. Under the definitions of the new Act we do not believe that, even without this amendment, it could be considered a major project. There is some confusion because the judicial review that has been removed applies only to major projects; it does not apply to those developments that will go in the normal way through a council to the Development Assessment Commission. It needs to be put on the record that the usual appeal processes will still continue to apply for projects that go through council to the Development Assessment Commission. The situation needs to be clarified because unquestionably something is happening in the northern suburbs with a particular member of the Australian Democrats who wishes to get a bit of publicity and who is doing a lot to confuse the situation. However, I hope the statements I have put on the record clarify the situation.

Amendment carried; clause as amended passed.

Title passed.

Bill reported with amendments; Committee's report adopted.

ROXBY DOWNS

In reply to **Hon. SANDRA KANCK** (25 July).

The Hon. R.I. LUCAS:

1. The material which appears to have given rise to this allegation was not radioactive waste. It was yellowcake—similar to material produced and shipped from Olympic Dam in the regular course of their operation. The yellowcake in question was produced as a result of test refining of uranium ore and it had been accumulated and stored at Lucas Heights over a number of years.

The amount of material involved was approximately 11 tonnes. It was sent to Olympic Dam in 1990 for final processing and eventual sale. The transport took place with full knowledge of both State and Commonwealth Governments. All necessary and appropriate notifications were made.

The instance relating to cleaning out of a leach tank is unrelated. This cleaning is an activity which must be carried out at intervals, and is not out of the ordinary. It is normal practice that before any vessel is entered, routine safety checks are conducted from outside the vessel. However, the allegations are not specific enough to know which tank is being referred to, or precisely when the cleaning took place.

All personnel working in any part of the mine and plant are thoroughly inducted to ensure they are fully aware of any hazards which may arise, and appropriate procedures to deal with potentially hazardous situations, whether radiologically related or not. The potential hazard associated with handling of the material in question is no different from that in the normal course of operations. Regular monitoring is carried out of radiation doses to workers, to ensure they are well below the internationally recommended standards. The Radiation Protection Branch of the South Australian Health Commission receives all routine monitoring data in this regard. Advice from the SAHC is that they do not believe there is any basis

at all to the allegation that safe limits of exposure have been exceeded.

The Government remains satisfied that activities relating to uranium mining and milling at Olympic Dam are supervised and monitored very closely, and all appropriate precautions are taken, to promote the occupational health and safety of the workers at the site, and the community.

2. The 'incident', as described, did not occur. Therefore, no report was required, and no report was written.

A great deal of monitoring takes place at Olympic Dam at all times, to ensure the protection of the health and safety of both the workforce and the wider community. Results from this monitoring are available to the Radiation Protection Branch of the South Australian Health Commission. Any apparent departure from internationally recognised guidelines, with regard to allowable radiation doses or to appropriate work practices, would be thoroughly and automatically investigated.

The operators of the Olympic Dam operation are justifiably proud of their excellent record with regard to the health and safety of their workforce.

3. With regard to the transport in 1990 of the yellowcake, from storage at Lucas Heights to Olympic Dam for normal processing, the Health Commission was correctly advised of this transport, as were the appropriate Commonwealth authorities. The movement of the material was carried out safely.

4. The record at Olympic Dam, with regard to both Occupational Health and Safety and to environmental monitoring, is good. The one instance where there has been some concern on the part of the Government has been the seepage of water from the Tailings Retention System. As you are no doubt aware, this was thoroughly investigated by Parliament's Environment, Resources and Development Committee. That Committee found: 'there have been no harmful effects to employees, the local community or the environment', and 'the changes to the Tailings Retention System undertaken by the Olympic Dam operators in response to the leakage have been undertaken with commendable zeal and that they appear to represent an appropriate response'.

Need I remind the honourable member of the membership of this Committee and that there was no dissent from these findings.

So it is quite obvious that the occupational health and safety and environmental personnel have been shown to be doing a good job. Western Mining employs at least 29 full-time staff in their Environmental and Radiation Protection Branch at the site. This team of skilled and qualified people is supported by an operating budget of around $3,000,000 annually. The operations are closely monitored and regulated by independent officers from all appropriate State agencies, including the Health Commission, the Environment Protection Authority, the Department of Environment and Natural Resources, Mines and Energy SA, and the Department of Industrial Affairs. There is absolutely no call for further independent environmental and occupational health and safety personnel at Olympic Dam.

FIREARMS (MISCELLANEOUS) AMENDMENT BILL

In Committee.

Clause 1 passed.

Clause 2—'Commencement.'

The Hon. SANDRA KANCK: I understand that 1 September is the date of operation. Is that correct or is there any chance that it might have to be delayed?

The Hon. R.I. LUCAS: My advice is that the current intention is still 1 September.

Clause passed.

Clause 3—'Interpretation.'

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

Page 5, line 8—Leave out paragraph (o) and insert paragraphs as follows:

(o) by inserting 'unless he or she establishes on the balance of probabilities that he or she was not carrying on such a business 'after' sold in excess of 20 in that period' in subsection (3);

(oa) by inserting 'unless he or she establishes on the balance of probabilities that he or she was not carrying on such a business 'after' sold in excess of 50 000 rounds in that period' in subsection (5);.

This amendment allows a person who has traded above the maximum number of firearms or rounds of ammunition in the 12 month period to prove that he or she is not a dealer. The Minister for Police promised to look at this amendment when debating the Bill in the Assembly.

Amendment carried.

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

Page 6, line 12—Leave out 'five' and insert 'six'.

The Hon. R.I. LUCAS: The Government supports the amendment.

Amendment carried; clause as amended passed.

Clause 4 passed.

Clause 5—'Establishment of consultative committee.'

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

Page 6, lines 16 and 17—Leave out paragraph (e) and insert paragraphs as follows:

(e) one must be a person who carries on the business of primary production and uses a firearm or firearms for the purposes of that business; and

(f) one must be a person who has experience in the administration of, or participating in, a competitive discipline in which shooters compete at the Olympic Games or the Commonwealth Games.

The Hon. R.I. LUCAS: This is supported by the Government.

Amendment carried.

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

Page 6, line 19—Leave out this line and insert line as follows:

'(2a) The committee must include at least two men and two women.'

This amendment falls into line with the general policy.

The Hon. R.I. LUCAS: The Government supports the amendment.

Amendment carried; clause as amended passed.

Clause 6—'Quorum, etc.'

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

Page 6, line 22—Leave out 'Three' and insert 'Four'.

The Hon. R.I. LUCAS: The amendment is supported by the Government.

Amendment carried; clause as amended passed.

Clause 7—'Possession and use of firearms.'

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

Page 8, line 12—Leave out 'or D' and insert ',D or H'.

This is the first of a series of test amendments to increase the penalties for the possession of hand guns to bring them into line with the penalties for the possession of C and D classification weapons. I indicate at this stage that the Government's position in relation to amendments to be moved by the Hon. Sandra Kanck, Deputy Leader of the Democrats, later on is that we are not in a position to support them. I will indicate the reasons why when we debate those amendments.

We are indebted to the Deputy Leader of the Democrats for raising the general issue of the penalties and the range of penalties, because on considering the whole penalties issue the Government has established that there was an omission in relation to penalties for hand guns. As a result of the Government having considered the whole issue of penalties as a result of having considered the Deputy Leader of the Democrats' proposed package of amendments on penalties, the Government believes that this issue should be tidied up in relation to the penalties. That is why this package of

amendments, of which this is the test case, is being moved by the Government to bring them into line with the other penalties that exist.

The Hon. T.G. ROBERTS: The Opposition will be supporting the Government's position on the amendments.

Amendment carried; clause as amended passed.

Clause 8—'Application for firearms licence.'

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

Page 9, line 21—Leave out 'a firearms licence' and insert 'a new firearms licence (as distinct from the renewal of a licence)'.

The amendment is needed to avoid a 28 day waiting period when an existing licence is renewed.

The Hon. T.G. ROBERTS: The Opposition supports the amendment.

Amendment carried.

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

Page 9, after line 22—Insert subsection as follows:

(8a) The Registrar will be taken to have refused an application for a firearms licence if the application has not been granted within 90 days after it was made.

This is a modification of an amendment that was originally moved by the Labor Opposition in another place whereby 56 days has been changed to 90 days.

Amendment carried; clause as amended passed.

Clauses 9 and 10 passed.

Clause 11—'Acquisition of firearms.'

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

Page 10, line 27—Leave out 'Subject to subsection 4, a' and insert 'A'.

This amendment is consequential on an earlier amendment.

Amendment carried.

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

Page 11, lines 4 to 15—Leave out subsection (4) and insert subsection as follows:

(4) It is a defence to prosecution for an offence against subsection (1) or (2) to prove that—

(a) the owner of the firearm carried on the business of primary production and that the firearm was lent temporarily to an employee or relative of the owner for the purposes of that business; or

(b) the owner of the firearm carried on the business of guarding property and that the firearm was lent temporarily to an employee of the owner for the purposes of that business; or

(c) the firearm was lent or hired in circumstances (prescribed by or under section 11) in which the person who borrowed or hired the firearm was not required to hold a licence authorising the possession or use of the firearm; or

(d) the firearm was a class A, B or H firearm and was lent pursuant to a written or oral agreement between the owner and borrower that the borrower would only use the firearm for a purpose or purposes specified in the agreement and would return the firearm to the owner within 10 days; or

(e) the firearm was borrowed or hired in circumstances prescribed for the purposes of this subsection by regulation.

New subsection (4) is the same as the subsection replaced except that, first, paragraph (d) is new and, secondly, it has been turned into a defence because it is not possible for the prosecution to prove the substance of paragraph (d).

Amendment carried.

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

Page 11, lines 25 to 27—Leave out subsection (7).

This amendment is consequential on an earlier amendment.

Amendment carried.

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

Page 11, line 29—Leave out 'or D' and insert ', D or H'.

The amendment is consequential.

Amendment carried.

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

Page 11, line 30—Leave out 'or D' and insert ', D or H'.

The amendment is consequential.

Amendment carried; clause as amended passed.

Clause 12 passed.

Clause 13—'Reasons for refusal of permit.'

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

Page 13, line 30—After 'Incorporated' insert 'and in accordance with regulations under this Act'.

I am advised that the amendment enables the use of class C firearms for clay target shooting to be tightened by regulation.

Amendment carried; clause as amended passed.

Clause 14—'Insertion of Division 2A of Part 3.'

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

Page 14, after line 19—Insert paragraph as follows:

(ab) if the firearm is a class A, B or H firearm and is lent pursuant to a written or oral agreement between the owner and borrower that the borrower will only use the firearm for a purpose or purposes specified in the agreement and will return the firearm to the owner within 10 days; or.

I am advised that this enables a class A, B or H firearm to be lent for up to 10 days. This amendment resulted from some amendments moved by the Labor Party in another place.

Amendment carried.

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

Page 15, after line 23—Insert subsections as follows:

(5a) A person must not transfer possession of a firearm under subsection (1)(ab) unless—

(a) immediately before transferring possession he or she has inspected the firearms licence held by the person who is to borrow the firearm and is satisfied that the borrower is authorised to possess the firearm and use it for the agreed purpose or proposes; and

(b) he or she believes on reasonable grounds that the borrower will not use the firearm for any other purpose.

(5b) A person must not transfer possession of a firearm under subsection (1)(c) or (d) or under circumstances prescribed by regulation unless he or she is satisfied, on reasonable grounds, that the person to whom possession is transferred is authorised by a firearms licence to possess and use the firearm for the purpose or purposes for which the firearm is transferred.

(5c) A person who borrows a firearm under subsection (1)(ab) must return it to the owner within 10 days.

This is consequential on earlier amendments.

Amendment carried.

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

Page 16, line 13—Leave out 'or D' and insert ', D or H'.

This is consequential.

Amendment carried; clause as amended passed.

New clause 14A.

The Hon. SANDRA KANCK: I move:

Page 17, after line 32—Insert new clause as follows:

Insertion of Division 2B of Part 3

14A. The following Division is inserted after Division 2A of Part 3 of the principal Act:

DIVISION 2B—TRAFFICKING IN FIREARMS

Trafficking in firearms, etc.

15E. (1) A person who in any period of 12 months occurring after the commencement of the *Firearms (Miscellaneous) Amendment Act 1996*—

(a) commits an offence against section 14(1), (2) or (5) in relation to three or more firearms or receivers; or

(b) commits two or more offences against section 14(1), (2) or (5) and the aggregate of the number of firearms or receivers in relation to which both or all of those offences were committed is three or more,

is guilty of the offence of trafficking in firearms.

(2) A person who in any period of 12 months occurring after the commencement of the *Firearms (Miscellaneous) Amendment Act 1996*—

(a) commits an offence against section 15B(10) in relation to three or more firearms; or

(b) commits two or more offences against section 15B(10) and the aggregate of the number of firearms in relation to which both or all of those offences were committed is three or more,

is guilty of the offence of trafficking in firearms.

(3) The maximum penalty for an offence against subsection (1) or (2) is as follows:

(a) where the firearms or one or more of the firearms are prescribed firearms or the receivers or one or more of the receivers are the receivers of prescribed firearms—

(i) for a first offence—$35 000 or imprisonment for seven years;

(ii) for a second offence—$40 000 or imprisonment for eight years;

(iii) for a third or subsequent offence—$45 000 or imprisonment for nine years;

(b) where the firearms or one or more of the firearms are class C or D firearms or the receivers or one or more of the receivers are the receivers of class C or D firearms—

(i) for a first offence—$20 000 or imprisonment for four years;

(ii) for a second offence—$25 000 or imprisonment for five years;

(iii) for a third or subsequent offence—$30 000 or imprisonment for six years;

(c) where the firearms or receivers are any other kind of firearms or receivers—

(i) for a first offence—$10 000 or imprisonment for two years;

(ii) for a second offence—$15 000 or imprisonment for three years;

(iii) for a third or subsequent offence—$20 000 or imprisonment for four years.

(4) When computing the number of offences a person has been convicted of for the purposes of subsection (3)—

(a) a conviction against either subsection (1) or (2) will be included even though the first conviction in the series was against the other subsection (for example if a person who has already been convicted of an offence against subsection (2) is subsequently convicted of an offence against subsection (1) the later offence will be a second offence); and

(b) a conviction against both subsection (1) and (2) arising from the same circumstances will be regarded as a conviction for one offence.

This amendment creates a complete new Division in Part 3. It deals specifically with the offence of trafficking in firearms, which, as I see it, is not, unfortunately, dealt with in the Government's Bill. Proposed new subsections 15E(1) and (2) define the activities which amount to trafficking. From the amendment it is clear that trafficking involves an accumulation of offences over a 12 month period or a number of firearms, or both of these. The offences to which it relates are those provided in proposed new subsections 14(1), (2) and (5) and 15B(10). Proposed new subsection 15E(3) sets out the penalties for trafficking in terms of the types of firearms involved and grades the penalties according to whether it is a first, second, third or subsequent offence. Proposed new subsection 15E(4) describes how the administrators of this law will calculate the number of offences. It is quite clear that a black market already exists in firearms in this State, and that has been helped along enormously by people being able to obtain guns by mail order.

The Hon. R.R. Roberts interjecting:

The Hon. SANDRA KANCK: There is still a black market. We have seen in the media and heard about activities of some of the bikie gangs, and we have heard about some of the people involved in National Action. Last night when I was speaking I mentioned an Adelaide lawyer who had plans to convert the A-15 semiautomatics to automatics by smuggling parts into Australia, so it is quite clear that the black market does exist.

Since this legislation was first mooted, we heard calls from some sections of the gun lobby to defy the legislation. We know that guns are being buried in some places, and it certainly appears very much to me that the black market that we currently have is likely to increase. I met with the Shooters and Firearms Council today, and it is quite supportive of the idea of imposing strong penalties on people who are caught trafficking in firearms.

I make no apology for the penalties that I have provided for here; they are very high. In one case, on the third or subsequent offence of trafficking in prescribed firearms, this amendment would see those people facing a maximum fine of $45 000 or imprisonment for nine years. I am not someone who believes that penalties deter criminals, but I have set these penalties high because of the potential dangers to our society from these people.

As I see it, these are people who quite deliberately, callously and provocatively break the law. They do not care about the implications when people are building up stocks of dangerous weapons, and I believe that when they are caught out they should have the book thrown at them. I see these people as being at the very least amoral, if not evil. When they are caught in the act of trafficking in these arms, I believe they surrender their right to be part of society for a while.

In putting these amendments together I was mindful of what the Hon. Mr Lucas said when he summed up the second reading debate last night and when he cautioned members of the Opposition and the Democrats regarding their amendments, because the Minister did not want anything going back to the other place which might give it cause to slow things down and perhaps even go to a deadlock conference. I am convinced that most sane, rational people would acknowledge that it makes great sense to insert a provision dealing specifically with trafficking. The Government's Bill does not do that, and it is very necessary for the protection of society.

The Hon. R.I. LUCAS: The Government opposes the amendment moved by the Australian Democrats. It does not do so from any position of venom, malice or anything such as that. I am advised that the Government thought carefully about the package of amendments. As I have indicated privately to the Deputy Leader of the Australian Democrats, we appreciate the general support from the Australian Democrats to the package of amendments before the Committee at the moment and realise that these amendments have been moved with the intention of further toughening the legislation.

In relation to proposed new subsection 14(8), I am advised that, if the Government became aware of someone who had committed five separate acts of, for example, purchasing firearms without a permit, a prosecution would proceed against that person on five separate counts.

The Hon. Sandra Kanck interjecting:

The Hon. R.I. LUCAS: In the end, it remains at the discretion of the judicial officer, just as it remains at the discretion of that officer in the amendments moved by the honourable member. The statute books are littered with laws where the penalties are significant, but the penalties meted out by courts are significantly less. In recent times there has been some debate about arson in schools, for example, where, if the damage amounts to more than $25 000, the penalty is life imprisonment. I can assure the Deputy Leader that not too many courts have been meting out penalties of life imprison-

ment for arson causing more than $25 000 damage to Government schools in South Australia.

I acknowledge the point made by the honourable member. I am advised that under the proposed arrangement for each separate count potentially there is a $10 000 fine or imprisonment for two years. I am further advised that in the case which I have just described there is the potential for the aggregated penalties to be slightly more significant than those about which the honourable member is talking. Even if they were not, they are in much the same sort of ballpark as the honourable member is proposing. Therefore, the Government will not support this package of amendments of which this is the first test case amendment that the Committee will need to debate.

The Hon. T.G. ROBERTS: At the risk of seeing a Democrat press release tomorrow morning saying 'Government and Opposition go soft on penalties in Firearms Act', the Opposition supports the Government's position. The explanation that has been given to me in my briefing is that there are cumulative provisions for individual acts of law-breaking in relation to this type of crime, and the cumulative penalties appear to be stiff enough to deter anyone considering becoming a gun runner if they are dealing with any more than one firearm.

The Hon. SANDRA KANCK: I am disappointed to hear that I do not have support, but I promise that I will not run out and put out a media release about it. I think there might have been more strength in having a section dealing specifically with trafficking and an offence of trafficking that could actually be named against a person. However, I accept that the numbers are not with me on this matter.

New clause negatived.

Clauses 15 to 19 passed.

Clause 20—'Cancellation, variation and suspension of licence.'

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

Page 20, line 7—Leave out this line and insert as follows:

'by written notice served—

(a) in the case of cancellation—personally on the holder of the licence;

(b) in the case of variation—personally or by certified mail on the holder of the licence.

This amendment resulted from the lengthy debate in the House of Assembly. Notification of cancellation of a licence must be served personally. Notification of a variation can be served personally or by certified mail.

Amendment carried; clause as amended passed.

Clause 21 passed.

Clause 22—'Breach of conditions, etc.'

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

Page 21, line 26—Leave out 'or D' and insert ', D or H'.

This amendment is consequential.

Amendment carried; clause as amended passed.

Clauses 23 to 29 passed.

Clause 30—'Duty to register firearms.'

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

Page 24, line 5—Leave out 'or D' and insert ', D or H'.

This amendment is consequential.

Amendment carried; clause as amended passed.

Clause 31 passed.

Clause 32—'Identification of firearms.'

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

Page 24, line 19—Leave out 'the action' and insert 'the receiver'.

This amendment is consequential.

Amendment carried.

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

Page 24, line 29—Leave out 'or D' and insert ', D or H'.
Page 25, line 3—Leave out 'or D' and insert ', D or H'.

These amendments are consequential.

Amendments carried; clause as amended passed.

Clauses 33 to 38 passed.

Clause 39—'Repeal of s.29 and insertion of ss.29, 29A, 29B and 29C.'

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

Page 28—
Line 9—Leave out 'Subject to subsection (3)'.
Line 14—Leave out 'Subject to subsection (3)'.
Lines 21 and 22—Leave out subsection (3).

These amendments are consequential.

Amendments carried; clause as amended passed.

Clauses 40 and 41 passed.

Clause 42—'Period of grace on cancellation, suspension, etc., of licence.'

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

Page 30, line 5—Leave out 'or D' and insert ', D or H'.

This is also consequential.

Amendment carried; clause as amended passed.

Clauses 43 to 49 passed.

Clause 50—'Insertion of ss.36A and 36B.'

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

Page 35, line 8—Insert after 'when the notice or document' ', or notice that the notice or document is available for collection,'.

This amendment arose, again, from the lengthy debate in the House of Assembly as to the mechanics of certified mail. The letter or parcel is delivered to the address but, if no-one is at home, a notice that the letter or parcel can be collected from the post office is left at the address. The amendment accommodates this arrangement.

Amendment carried; clause as amended passed.

Clauses 51 and 52 passed.

Clause 53—'Regulations.'

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

Page 36, line 2—Leave out 'the actions, or parts of the actions,' and insert 'the receivers'.

This amendment is consequential.

Amendment carried.

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

Page 36, after line 7—Insert paragraph as follows:

(f) by inserting the following subsection after subsection (2):

(3) A regulation made under this section or any other provision of this Act may confer discretionary powers.

This amendment enables the regulations to confer discretionary powers. This is a common provision in regulation making powers and is needed for the compensation provisions.

Amendment carried.

The Hon. SANDRA KANCK: Given that 1 September will be the apparent start-up date, how far down the track is the Government with preparation of regulations?

The Hon. R.I. LUCAS: I am advised that preliminary work has started on the preparation of the regulations, but they will not be ready by tomorrow.

The Hon. SANDRA KANCK: My purpose in asking the question is that, as I said earlier, I met today with members of the Shooters and Firearms Council and they expressed the concern that they felt they had been sidelined throughout most of the legislation. I do understand the emotional situation in which everyone has been regarding uniform gun legislation, but I wonder whether there is any room at this

stage for the Shooters and Firearms Council to be consulted on the regulations—whether they can be provided with a draft copy of the regulations so that they can provide input? I must say that, in talking to them today, I believed they did have a degree of expertise that I think we would be foolish to miss out on.

The Hon. R.I. LUCAS: At this hour I cannot give a commitment on behalf of the Minister, but I will give a commitment that I will convey the Deputy Leader of the Democrats' submission on that issue to the Minister responsible for the legislation to see what his response might be.

Clause as amended passed.

Clause 54—'Substitution of schedule.'

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

Page 38, lines 3 and 4—Leave out 'the actions, or parts of the actions,' and insert 'the receivers'.

This is consequential.

Amendment carried.

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

Schedule, page 38, line 5—Leave out 'the actions, and parts of actions' and insert 'the receivers'.

This is consequential.

Amendment carried.

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

Schedule, page 38, after line 24—Insert new subclause as follows:

(1a) No proceeding for judicial review or for a declaration, injunction, writ, order or other remedy may be brought to challenge or question—

(a) the amount of compensation payable under regulations made under subclause (1) or a determination or, or a determination or decision that affects, the amount of compensation payable under regulations made under that subclause; or

(b) proceedings or procedure under regulations made under subclause (1); or

(c) an act, omission, matter or thing incidental or relating to the operation of regulations under subclause (1).

This subclause provides that no judicial review or other means of appeal lies against compensation granted under the Act.

Amendment carried; clause as amended passed.

Title passed.

The Hon. R.I. LUCAS (Minister for Education and Children's Services): I move:

That this Bill be now read a third time.

At the outset, on behalf the Government, I am indebted to the Hon. Terry Roberts, representing the Labor Party, and the Hon. Sandra Kanck, representing the Australian Democrats, for being prepared to stay to this late hour to finish what is an important package of amendments. I thank both them, representing their respective Parties, for the way in which the debate has been conducted in the Legislative Council. I said earlier, and I will repeat it very briefly again, that the way the debate has been conducted is a credit to members in the Legislative Council of all Parties. On behalf of the Government, I would like to publicly acknowledge that and thank members for the way in which the debate has been conducted.

Bill read a third time and passed.

POULTRY MEAT INDUSTRY ACT REPEAL BILL

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

ADJOURNMENT

At 12.29 a.m. the Council adjourned until Thursday 1 August at 11 a.m.